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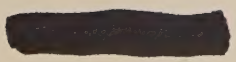

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THE PACIFIC AREA

AN INTERNATIONAL SURVEY

By GEORGE H. BLAKESLEE

Professor of History and International Relations
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THE PROVIDENCE ATHENÆUM

WORLD PEACE FOUNDATION PAMPHLETS
40 MT. VERNON STREET, BOSTON
VOL. XII 1929 NO. 3

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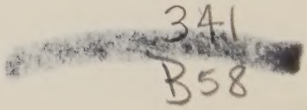

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THE PACIFIC AREA
AN INTERNATIONAL SURVEY

By George H. Blakeslee

INTRODUCTION

So rapid has been the change in the international situation in the area of the Pacific that some of the old landmarks are now scarcely discernible. We no longer see a group of military powers making aggressive demands upon a helpless China; to-day it is China which is making the demands upon the other states. The international issues which are pressing for settlement, some of them dating back many years, others recently arisen from the new developments in the Far East, are in several instances both dangerous and difficult, threatening the peace of this region and involving a conflict between claims of right each based upon a different set of fundamental principles. To present a survey of this situation and its problems is the aim of this volume. Giving only enough historical background to make existing conditions understandable, it attempts to set forth the factors which are to-day most important in the relations of the leading countries: the treaties which bind them, their announced aims and policies, their agreements for common action, their conflicts of interest and the issues remaining to be solved.

Nationalist China, with a Government entitled to speak for the country as a whole, is demanding the revision of those treaties which granted the exceptional privileges which have been enjoyed by foreign states and their

nationals for over 80 years. It has already regained important rights. Due to treaties and agreements signed during the past few months it now has in force, for the first time since 1843, a national tariff of its own choosing and awaits only a settlement with Japan to obtain unquestioned tariff autonomy. It has extended its jurisdiction over several of the areas in treaty-ports which for years have been administered by foreigners. But regarding extraterritoriality China and the leading Pacific powers are at issue. Although some states such as Germany and Russia have already lost their extraterritorial rights in China, and although others, including Belgium, Denmark, Italy, Portugal and Spain, have promised to relinquish them as soon as the other powers do so, the United States, Great Britain, Japan and France decline to give up these privileges completely at the present time. The opposing points of view on this issue are presented in this study, together with references to the pertinent source material. But as to the treaties upon which extraterritoriality rests, it is pointed out that the Chinese although thus far respecting them do not regard them as morally or legally binding, maintaining that changed conditions have rendered them no longer applicable.

Although the treaty-powers have certain interests in common in China, each of them has its own aims and policies; and these have been described. Great Britain has adopted a new program of conciliation, announced in December, 1926; and Japan with its important interests in China has varied from a friendship policy under Baron Shidehara to a positive policy under Baron Tanaka, and recently back again to the friendship policy. But the most sudden and dramatic change has been in the relations between China and the Soviet Union: less than three years ago Russia was popular and influential to a degree never reached by any other nation in China; to-day its representatives have been driven from the country.

Of all the issues in the Pacific area, those which are fraught with the greatest danger center in Manchuria,

where meet the conflicting interests and policies of China, Russia and Japan. However difficult of settlement are the opposing claims of China and Soviet Russia regarding the Chinese Eastern Railway, probably more difficult of adjustment are the respective rights maintained by China and Japan in South Manchuria. To these involved issues a chapter has been devoted.

There are problems in the Pacific area which deserve careful study aside from those which concern China. Of particular importance are the relations of Japan with Russia and with America. Toward the Soviet Union Japan is attempting the somewhat difficult task of developing friendly economic contacts abroad and of stamping out at home the Soviets' doctrine of communism. Between Japan and the United States the only important issue is that of the exclusion provision of the Immigration Act of 1924, which Japanese opinion regards as humiliating. The issue of immigration in its wider aspects is linked with Japan's problem of "population and food supply" which many believe is the most serious in the Pacific. It is not only the United States which excludes Oriental labor; the same position is taken in general by the British Dominions.

In conclusion, a description has been given of the treaties and organizations now in existence for the maintenance of international understanding and the avoidance of war in the Pacific, especially Secretary Stimson's application of the Pact of Paris to the Sino-Soviet dispute over the Chinese Eastern Railway, and an outline presented of the additional measures which have been suggested for safeguarding the peace of this region.

The issues and problems which have been considered in this volume will shortly be the subject of study and discussion by the unofficial representatives of the countries concerned at the Kyoto Conference of the Institute of Pacific Relations — an event which has, in largest measure, prompted the preparation of this international survey of the Pacific area.

I. CHINA'S RELATIONS WITH THE POWERS AS A WHOLE: THE UNEQUAL TREATIES

Foreigners of many countries enjoy to-day in China exceptional rights which Chinese do not enjoy in other lands. The treaties which grant these privileges are called by the Chinese, by way of reproach, the "unequal treaties." This term, however, is somewhat resented by many Westerners, who insist that these international agreements were necessary to obtain for foreigners in China the minimum safeguards for person and property demanded by international law of all countries in the family of nations.

Of these treaties the most important were those of Nanking, 1842,[1] and its supplementary agreements, made with Great Britain, which opened five Chinese cities to foreign residence — leading to the establishment in these cities of semi-independent, foreign-administered municipal areas — and placed limitations upon the customs duties which China might levy upon foreign goods; Wanghia, 1844,[2] with the United States, which made provision for the rights of extraterritoriality; Tientsin and Peking, 1858 and 1860,[3] with France, Great Britain, Russia and the United States, which opened additional cities, gave exceptional rights to Christian missionaries, and strengthened and extended the privileges previously granted; and the protocol of 1901,[4] at the close of the Boxer uprising, which empowered the 11 signatory states to fortify the Legation Quarter in Peking and to guard by troops the

[1] *China. Maritime Customs. Treaties, Conventions, etc.*, p. 351.

[2] Malloy, William M., *Treaties, Conventions*, etc., Vol. I, p. 202; for excerpts from the treaty, see Hornbeck, Stanley K., *China To-day: Political*, p. 494.

[3] *China. Maritime Customs. Treaties, Conventions, etc.*, p. 85, 101, 404, 430, 713, 814, 885; for excerpts, see Hornbeck, *op. cit.*, p. 496.

[4] MacMurray, J. V. A., *Treaties and Agreements With and Concerning China*, Vol. I, p. 278.

route from Peking to the sea. By the most-favored-nation clause a grant made to the nationals of any one power was legally extended to those of every other power which had a treaty with China containing this clause. There was thus developed in China a system of rights which was enjoyed by the nationals of most foreign countries. In addition, a number of the powers, France, Germany, Great Britain, Japan and Russia, obtained by cession or long-term lease valuable areas in China and important railroad and other economic concessions.

But the strong nationalism of China, somewhat recently developed, stimulated emotionally by the unfortunate events of 1925 and strengthened by the unification of the country in 1928, is demanding the abrogation of these unequal treaties and the cancellation of all exceptional grants previously made to other states and their nationals. Of these foreign privileges the Chinese object particularly to tariff control, extraterritoriality and the administration of treaty-port concessions and settlements. The recent diplomatic history of China centers around its effort to regain its normal sovereign rights.

Tariff Autonomy

It is in freeing itself from the foreign control of its tariff rates, that is, in winning tariff autonomy, that China has been most successful. Before the treaty of Nanking, to quote the statement of the treaty-powers in their identic note to China of September 4, 1925, there had been "irregular, arbitrary and varying methods in the assessment and the collection of the duties." By that treaty and its supplementary agreements of the following year it was stipulated that the duties upon British imports and exports should be uniform and on a basis of approximately 5% ad valorem. After other states had obtained the same rights regarding the tariff by virtue of the most-favored-nation clause, a situation developed where China was unable to raise its tariff rates without the unanimous agreement of all the treaty powers.

This foreign control of China's tariff rates has continued until the present year, 1929, with relatively slight modification. In accordance with the treaty of Tientsin, 1858, the rates were revised in that year and for the most part were made specific instead of upon an ad valorem basis. In three later years, 1902, 1918 and 1922 — following the Boxer Settlement, China's entry into the World War and the Washington Conference — the powers agreed, on account of the general rise in prices, to allow increases in the specific customs duties in order to give China an effective 5% ad valorem.

To obtain an increase in these 5% duties and, if possible, complete freedom from foreign control, has been one of the foremost aims of China for some 30 years. The problem was difficult because of the necessity of obtaining the consent of all treaty-powers, and was complicated by the existence of transit duties and likin,[1] levied upon foreign goods in the interior, which the powers wished to abolish.

There were many reasons advanced by the Chinese in favor of tariff autonomy. The régime of control by the treaty-powers with a limitation upon import duties of 5% was a violation of the normal sovereign rights of an independent state. It resulted in a continuous loss of revenue to the Government as compared with other countries which levied an average rate upon their imports of from 15% to 60%. It was an impediment to China's economic development since it prevented tariff reciprocity with other states and made it impossible to encourage native industry by a protective tariff. It was unscientific in that it required the same duty upon both luxuries and the necessities of life.[2]

[1] "*'Likin'* was, in its original and strict meaning, a charge levied on goods in transit, calculated on the value of the goods, at the rate of one or more thousandths. But in a broad sense and in popular usage the term 'likin' is now employed to designate collectively a broad category of taxes levied in varying amounts and under a variety of names upon internal trade." Hornbeck, *op. cit.*, p. 460.

[2] Summarized from the statements of the Chinese delegation at the Washington Conference; see Willoughby, W. W., *Foreign Rights and Interests in China*, Vol. II, Chap. XXXI, esp. p. 788–791, 806–809; *Conference on the Limitation of Armament*, p. 1174 *ff.*

The first step in the long struggle to obtain tariff autonomy was taken in 1902 and 1903, when Great Britain, Japan and the United States agreed that China might levy 12½% duties upon imports and 7½% upon exports, provided that likin and transit dues should be abolished and provided further that similar agreements should be made by all other treaty-powers. Since the other states with the exception of Sweden did not take such action, these provisions never came into effect; but they remained for some years the immediate goal for which China was striving. After the World War, at the Paris Peace Conference, the Chinese delegation asked for tariff autonomy, but the powers regarded the matter as outside the scope of the conference. At the Washington Conference, 1921–1922, the Chinese delegation made an able plea for an immediate increase in duties and for early tariff autonomy. The assembled powers, however, only arranged for a special conference to prepare for the abolition of likin and for the tariff increases named in the treaties of 1902 and 1903; and authorized it, in advance, to agree to the levying of surtaxes — that is, additional duties above the regular 5% — amounting to 2½% ad valorem upon all imports, and to 5% upon luxuries. These additional duties, although never legally and specifically granted, were popularly termed "the Washington Conference surtaxes."

The Special Tariff Conference, attended by 13 powers,[1] met in Peking in October, 1925, and remained in session until July, 1926, when it adjourned. It did not draw up a treaty, nor grant the surtaxes, nor take any action which had legally binding force. Nevertheless, it was of much importance in the history of the tariff controversy. The delegates agreed by resolution upon two significant articles to be included in the treaty which they expected to draw up and sign: first, the powers other than China agreed to

[1] The nine Washington Conference powers, Belgium, the British Empire, China, France, Italy, Japan, the Netherlands, Portugal and the United States; and the four states which had adhered to the Nine-Power Treaty, Denmark, Norway, Spain and Sweden.

China's tariff autonomy by January 1, 1929; and, second, China agreed to abolish likin by that same date. Although these articles had no technical validity since no treaty was signed, the Chinese leaders have regarded this resolution as morally committing the powers to tariff autonomy by the date specified, and some at least of the foreign diplomats have held much the same point of view.[1]

After the Peking conference some friction developed regarding the "Washington conference surtaxes." These 2½% and 5% additional duties were collected in their respective territories first by the Nationalist Government, then in control in the South, and later by the Peking Government of the North. Since these surtaxes had never been legally granted by the powers, and were therefore technically in violation of their treaty rights, the powers at first united in a protest against their collection. But they took no action to enforce their protest. The British Government even advised its nationals to pay the surtaxes.[2] But when the Nationalist Government in the summer of 1927 attempted to levy surtaxes of 30% on wines and spirits, and 50% on tobacco, the British and Japanese courts and the American consul-general at Shanghai used their extraterritorial powers to prevent it.[3]

The principal difficulty in coming to any international agreement upon tariff autonomy was the absence of any Government in China which could speak for the country as a whole. The failure of the Peking tariff conference was largely due to the fact that

the Nationalist Government and the Nationalist armies served notice (in July, 1926) that they would respect no treaty which might be negotiated by the Peking Government.[4]

[1] For the proceedings of the tariff conference, see *China Year Book, 1926*, Chap. XXIX.

[2] *China Year Book, 1928*, p. 1065.

[3] *Ibid.*, p. 1073–1076; Toynbee, Arnold J., *Survey of International Affairs*, 1927, p. 377–379.

[4] Hornbeck, *op. cit.*, p. 465; for the official notes, see *China Year Book, 1926*, p. 1142–1146.

Under these circumstances, the British Government communicated a memorandum, December 18, 1926, to the representatives of the Washington treaty-powers, proposing that these powers should issue a statement

declaring their readiness to negotiate on treaty revision and all other outstanding questions as soon as the Chinese themselves have constituted a Government . . . should declare their readiness to recognize her right to the enjoyment of tariff autonomy as soon as she herself has settled and promulgated a new national tariff . . .[and, without waiting for treaty revision] should now authorize immediate levy of the Washington surtaxes unconditionally throughout China.[1]

Evidently as a result of the British proposal to the powers, the United States through its Secretary of State, Mr. Kellogg, issued a statement regarding American policy in China, January 27, 1927, which said in part:

The United States is now and has been, ever since the negotiation of the Washington treaty, prepared to enter into negotiations with any Government of China, or delegates who can represent or speak for China, not only for the putting into force of the surtaxes of the Washington treaty, but entirely releasing tariff control and restoring complete tariff autonomy to China. . . . The Government of the United States was ready then [at the time of the adjournment of the Peking conference] and is ready now to continue the negotiations on the entire subject of the tariff and extraterritoriality or to take up negotiations on behalf of the United States alone. The only question is with whom it shall negotiate. . . . However, existing treaties which were ratified by the Senate of the United States can not be abrogated by the President but must be superseded by new treaties negotiated with somebody representing China and subsequently ratified by the Senate of the United States.[2]

[1] Excerpts from Secs. 6, 7 and 13 of the statement, *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XI, p. 99–103; Toynbee, *op. cit.*, 1926, p. 489–492; *China Year Book, 1928*, p. 757–759. The statement was reiterated in a letter of February 8, 1927, which was circulated to Member states of the League of Nations by request of the British Government, and published in the League of Nations, *Official Journal*, Vol. VIII, p. 293.

[2] Hornbeck, *op. cit.*, p. 550; *Current History*, March, 1927, Vol. XXV, p. 903.

The United States by this statement refused to grant China either the Washington surtaxes or tariff autonomy without the negotiation of a definite treaty. The Japanese Government was also unwilling to accept the British proposal. Baron Shidehara, the Japanese Minister for Foreign Affairs, stated in a speech before the Imperial Diet, January 16, 1927:

> We have no objection to the levying of the surtaxes as provided for in the Washington customs treaty. But we must make it reasonably certain that such additional customs revenue shall not be applied, directly or indirectly, to purposes of civil war, or that it shall not be appropriated for the private use of a faction or factions.[1]

Efforts were made in the winter months of 1927–1928 to induce both the Nationalist and the Peking Governments to appoint an equal number of delegates to represent China in the negotiation of a new tariff treaty. At one time this plan gave much promise of success. But the northern drive of the Nationalist armies in the spring of 1928, and the subsequent capture of Peking, justified the Nanking Government in regarding itself as the authorized spokesman for China as a whole.

The United States was the first of the powers to take advantage of the new situation to grant in principle to China complete tariff autonomy. A treaty signed July 25, 1928, by John Van Antwerp MacMurray, American Minister to China, and Mr. T. V. Soong, Minister of Finance of the Nationalist Government, stated:

> All provisions which appear in treaties hitherto concluded and in force between the United States of America and China relating to rates of duty on imports and exports of merchandise, drawbacks, transit dues and tonnage dues in China shall be annulled and become inoperative, and the principle of complete national tariff autonomy shall apply, subject, however, to the condition that each of the high contracting parties shall enjoy in the terri-

[1] Toynbee, *op. cit.*, 1926, p. 507.

tories of the other with respect to the above specified and any related matters treatment in no way discriminatory as compared with the treatment accorded to any other country.

The nationals of neither of the high contracting parties shall be compelled under any pretext whatever to pay within the territories of the other party any duties, internal charges or taxes upon their importations and exportations other or higher than those paid by nationals of the country or by nationals of any other country.[1]

This treaty did not of itself grant to China tariff autonomy. But it did lead the way for the other treaty powers whose consent was necessary for the abolition of all foreign control over the Chinese customs — and this apparently was its purpose. Secretary Kellogg said in his letter which accompanied the treaty into the Senate:

It is believed that by the signing of this treaty a benefit has been conferred upon all concerned, in that, while safeguarding American interests and doing no injury to the interests of any other country, the way has been provided for a procedure whereby the powers may relinquish their so-called "control" over China's tariff. It is believed, moreover, that this action is in conformity with the traditional American policy of friendship toward the Chinese nation.[2]

During the following November and December all but one of the other powers claiming control over China's tariff signed treaties granting tariff autonomy. In order of signature they were Norway, Belgium, Italy, Denmark, Portugal, the Netherlands, the British Empire, Sweden, France and Spain.[3] Some of these treaties followed closely the wording of the American treaty, and limited their pro-

[1] United States, *Treaty Series*, No. 773; *American Journal of International Law*, Official Documents, October, 1928, Vol. XXII, p. 170–171. Ratifications were exchanged at Washington, February 20, 1929, but by the terms of the treaty its provisions did not become effective until four months later — long after the Chinese national tariff had been put into operation.

[2] *Cong. Record*, 70th Cong., 2d sess., p. 3234.

[3] For texts see *Chinese Social and Political Science Review*, Public Documents Supplement, January, 1929, Vol. XIII, p. 7–51.

visions to the subject of the tariff. Others included additional matters, particularly extraterritoriality.[1]

By the opening of the new year, 1929, therefore, all the powers represented at the Peking conference of 1925, with the single exception of Japan, had by treaty relinquished their control over China's customs duties, subject to the pledge that there should be no discrimination in tariff matters. The other powers which had formerly shared in tariff control, Austria-Hungary, Germany[2] and Russia, had already lost their rights in consequence of the World War and the Russian Revolution and the treaties made with China shortly thereafter. In the meantime, the Chinese Government had come to the important decision that upon February 1, 1929, it would put into effect a new national tariff with much higher duties and, on December 6, 1928, Foreign Minister C. T. Wang sent notes to the powers having tariff treaties with China inclosing copies of the new schedules.[3]

Japan has believed that it would suffer more than any other country by an increase in the Chinese tariff. It has come to export low-priced goods to China upon a large scale, especially cheap-grade cotton cloth, which would be seriously affected by an appreciable increase in customs duties. This situation has often been explained by Japanese spokesmen. At the Washington Conference, the Japanese subcommittee on the Chinese tariff reported that "the country which would suffer most by the revised tariff would be Japan," since "Japan supplies those articles which are

[1] These treaties comprise two classes: first, those with five states (Belgium, Denmark, Italy, Portugal and Spain) whose former treaties had, in the view of the Chinese Government, already expired. These are designated as preliminary treaties of amity and commerce, and deal with both tariff and extraterritoriality. Second, those with six states (British Empire, France, Netherlands, Norway, Sweden and United States) whose commercial treaties are admittedly in force. These new treaties are therefore limited solely to the tariff.

[2] Germany and China agree by Art. 4 of their treaty of May 20, 1921, and Art. 1 of their treaty of August 17, 1928, that each state shall regulate its own customs, but that neither shall be subject to any discriminatory treatment. League of Nations, *Treaty Series*, Vol. IX, p. 285; *Chinese Social and Political Science Review*, Public Documents Supplement, October, 1928, Vol. XII, p. 71. An equivalent provision is in Art. VIII of the treaty with Austria of October 19, 1925, League of Nations, *Treaty Series*, Vol. LV, p. 22.

[3] *Week in China*, December 8, 1928, Vol. XII, p. 15.

mostly sold to the lower class of people in China to satisfy their daily need." The Japanese subcommittee at that time, therefore, objected to an immediate increase of the Chinese tariff to even an effective 7½%.[1] The same view was presented at the Peking conference. Minister Yoshizawa of the Japanese delegation, stated in committee November 6, 1925:

> An immediate enforcement of a surtax at a higher rate than 2½% would seriously disturb the trade relations between China and other countries and more particularly would vitally affect the industry and commerce of Japan.[2]

In consequence of this conviction, the Japanese delegation, while agreeing to tariff autonomy for China by January 1, 1929, proposed that during the interim period, somewhat over three years,

> China, on the one hand, and the other contracting powers, on the other, shall conclude severally treaties which may incorporate reciprocal conventional tariffs to be applied on certain special articles if so desired by both parties. The new treaties so concluded shall continue in force for a certain definite period.[3]

In other words, Japan proposed at the Peking conference that before tariff autonomy should go into effect, her Government should be given the opportunity to negotiate a special treaty with China which would, for a term of years, maintain a reasonably low rate upon those exports from Japan which would suffer most severely by a marked increase in duties. This proposal has been criticized by many Chinese writers and their friends.[4]

It is evident, therefore, that the Japanese Government must have been reluctant to agree to follow the example

[1] Willoughby, W. W., *Foreign Rights and Interests in China*, Vol. II, p. 797.

[2] *China Year Book, 1926*, p. 1134.

[3] *Ibid.*, p. 1128.

[4] Bau, M. J., *China and World Peace*, p. 82; Willoughby, *op. cit.*, Vol. II, p. 838–839; *Week in China*, December 8, 1928, Vol. XII, p. 20–21.

of other powers and give China tariff autonomy, before some assurance was obtained that the duties on articles in which the Japanese were especially interested would be maintained at reasonably low rates. The problem was further complicated by other issues which were under negotiation between China and Japan at the time. However, on January 30, two days before China was to put its national tariff into force, Japan gave its consent to China's new tariff for the period of one year. The notes exchanged between the representatives of the two Governments have not at this writing been made public, so that it is impossible to state their exact provisions. It appears probable that Japan has given no more than a temporary assent to China's new tariff, with the expectation that within a year a satisfactory commercial treaty, dealing with the customs duties, will be negotiated.

On February 1, therefore, China's new national tariff went into effect.[1] In Nanking the day was proclaimed a holiday, and in that city and in Shanghai there were displays of flags and parades and demonstrations.

This new tariff autonomy, however, is subject to certain temporary limitations, the most important of which is that the recently established tariff duties are not to be increased for at least a year. This restriction is found in Annex III of the Sino-British treaty.[2] While the American treaty, and most of the other recent tariff treaties, granted to China complete and unrestricted tariff autonomy, this pledge to Great Britain, by virtue of the treaty provisions against discrimination, becomes also a pledge to the other treaty-powers.

The new national tariff, put into force February 1, 1929, is substantially the same as the one provisionally adopted at the Peking tariff conference in 1926 as an ad interim measure to be effective until complete tariff autonomy should go into effect, January 1, 1929.[3] The rates are moderate. Some items are on the free list: cereals and

[1] *Week in China*, February 2, 1929, Vol. XII, p. 98–99.
[2] Great Britain, *Treaty Series*, No. 10 (1929), Cmd. 3319.
[3] *Ibid.*, p. 7.

flour, books and periodicals. The duties on imports vary from 7½% to 27½% ad valorem, with a 32½% excise upon cigars and cigarettes.

Should Japan and China fail to conclude a new commercial treaty within the coming year, it may be that the Japanese Government will claim, on a strictly legal basis, that China is still under treaty obligations to levy no higher duties than the former 5% ad valorem. The contention would be that since the agreement of January 30, 1929, merely gave Japan's consent to the new national tariff for a period of a year, the year having expired, the provisions of the regular Sino-Japanese commercial treaty remained in force, and that these prevented China from increasing its tariff above 5% ad valorem. This contention would not be accepted by China, on the ground that the Sino-Japanese commercial treaty was legally terminated July 20, 1928, an issue which will be considered later in this study.

Likin, it is to be noted, was not abolished February 1, nor is its abolition made a condition of complete tariff autonomy. China has merely given an assurance, to be found in the annex to the British treaty, that it is the Government's "intention that goods having once paid import duty to the maritime customs in accordance with the rates imposed in the new or any subsequent national tariff will be freed as soon as possible from any levies of the nature specified;" that is, from "likin, native customs dues, coast trade duties and all other taxes on imported goods whether levied in transit or on arrival at destination." [1]

A complication exists at present in regard to the long-established preferential duties levied on the land frontiers of China. In Annex IV of the British treaty, the Chinese Government declared that

it is their intention to apply the new customs tariff uniformly on all land and sea frontiers of China, and that, as from the date of

[1] Great Britain, *Treaty Series*, No. 10 (1929), Cmd. 3319, Annex III.

coming into force of the new tariff, the preferential rates at present levied on goods imported or exported by land frontier will accordingly be abolished.

The British Government stated that it was in full agreement with this declaration.[1] There existed by old treaties and agreements a system of reductions in the Chinese customs duties for goods imported or exported across the land frontiers between China and French Indo-China, Burma, Siberia and Chosen. The Washington Conference voted "in principle" to do away with these preferences, as is seen in Art. VI of the treaty relating to the Chinese customs tariff:

> The principle of uniformity in the rates of customs duties levied at all the land and maritime frontiers of China is hereby recognized. The special conference provided for in Art. II [the later Peking conference] shall make arrangements to give practical effect to this principle.[2]

But the Peking conference concluded no treaty, and the preferential duties at the land frontiers remained in force. Russia renounced in principle its right to reduced frontier duties by the agreement of 1924, and Great Britain and France lost their rights by the recent tariff treaties.[3]

Japan, however, maintains that its rights on the Manchurian-Korean border have not been lost. These rights

[1] Great Britain, *Treaty Series*, No. 10 (1929), Cmd. 3319, Annex IV.

[2] *Conference on the Limitation of Armament*, p. 1637.

[3] The Chinese Government at Peking, August 6, 1926, and the National Government in July, 1928, notified the French Minister of the termination of the Sino-French convention of April 25, 1886, the additional convention of June 26, 1887, and the convention supplementary to this convention, dated June 20, 1895, all of which dealt with frontier trade between China and France, and which provided for tariff reductions on exports and imports at the Indo-Chinese land frontier. With the signing of the Sino-French tariff treaty, December 22, 1928, it was agreed by an exchange of notes that negotiations should begin shortly for a new convention relating to Indo-China, and that during the continuance of the negotiations, if not protracted, the present reductions in the tariff at the land frontier should be continued. But the Chinese Minister for Foreign Affairs, Dr. C. T. Wang, stated that in any case the reductions in the tariff would cease to be applied beginning from March 31, 1929. *China. Maritime Customs. Treaties, Conventions, etc.*, 2d ed., Vol. I, p. 913, 925, 937; *China Weekly Review*, January 12, 1929, Vol. XII, p. 276–277.

were specified in an agreement in 1913,[1] and provide that dutiable goods between Manchuria and Chosen by rail via Antung pay only two-thirds of the regular maritime customs duties. After the Chinese Government had done away with the preferential frontier duty enjoyed by Russia, it announced that the one-third preference at Antung would be abolished on March 1, 1929. The Japanese vigorously objected to this action; Consul-General Hayashi officially protested on the ground that Japan's acceptance for a year of China's new tariff rates did not render obsolete existing treaties and agreements, and that the abrogation of the one-third preference at Antung was in violation of the Sino-Japanese agreement of May 29, 1913. A local Japanese paper even stated, "the Japanese are to resist the enforcement of the above change by force." As a result this preference was temporarily allowed to remain.[2]

Japan similarly objected to the levying at Dairen of a $2\frac{1}{2}\%$ additional export tax, which was recently assessed in conformity with the action of the Chinese customs authorities in southern China, where they have been collecting this duty at the ports in lieu of a $2\frac{1}{2}\%$ transit tax previously collected in the interior. In Manchuria, however, it is claimed, no such transit tax has previously been levied. The Japanese Government at Tokyo declined to admit the legality of this tax on the ground that the recent customs agreement with China had not recognized it. The introduction of the new levy was therefore postponed. The action of the Japanese Government shows that, in its view, its customs agreement of January 30 by no means granted to China complete and immediate tariff autonomy.[3]

The Chinese Maritime Customs Service

The Chinese Maritime Customs Service, which traces its beginning as far back as 1854, is a Chinese Government organization headed by a British subject who has unlimited

[1] MacMurray, *op. cit.*, Vol. II, p. 1039–1041.

[2] *Manchuria Daily News*, Monthly Supplement, March 1, 1929, p. 3.

[3] *Ibid.*, March 1, 1929, p. 1.

authority in this field. The well-known Sir Robert Hart was inspector-general for 45 years. At present the personnel consists of more than 5,000 Chinese and 1,000 foreigners, but the foreigners hold the highest offices. The Service is efficient and honest and has been of very great assistance to China. It is the customs which has been the security for many of the foreign loans to China and for the famous Boxer indemnity payments.

In February, 1927, Sir Francis Aglen, an Englishman who was then inspector-general, was dismissed from his position by the Chinese Government in Peking — although he was gazetted as on leave for one year — because he would not collect surtaxes which were contrary to treaties with the powers. Against this action the diplomatic corps formally protested.[1] Mr. A. H. F. Edwardes, another Englishman, was then appointed officiating inspector-general; but in January of the present year, Mr. F. W. Maze, also an Englishman, was made inspector-general by the National Government.[2]

The desire has been expressed by many Chinese that their Government should take over the administration of the customs service and displace the foreigners. The question, therefore, naturally arises, whether China is legally bound to maintain the present maritime customs service. In 1898 the Chinese Government promised the British Government that it would appoint an Englishman as inspector-general as long as the trade of Great Britain with China should be greater than that of any other country. "But," the Chinese note stated, "if at some future time the trade of some other country at the various Chinese ports should become greater than that of Great Britain, China will then, of course, not be bound to necessarily employ an Englishman as inspector-general." [3] Since the trade of Great Britain (even including Hong Kong) has for some years now been much exceeded by that of Japan,

[1] *China Year Book, 1928*, p. 1076–1077.
[2] *New York Times*, January 10, 1929.
[3] MacMurray, *op. cit.*, Vol. I, p. 105–106.

China is clearly under no further obligation on account of this promise.

There are, however, two financial agreements made by the Chinese Government with British and German banks, in 1896 and 1898, in which, as conditions of the loan, the Chinese Government promised to continue "the administration of the Chinese Imperial Maritime Customs Service as at present constituted through the continuance of the loan." Both of these loans are outstanding, and the longer-termed one can not be retired by the Chinese Government before 1943.[1]

The Chinese Government is, therefore, committed to maintain the customs service with foreigners at its head for some 14 years longer. This legal right of foreigners to continue supervision of the customs service is in conflict with the contention of the Nationalists that they have the moral right to take complete control of all of their domestic affairs.

Extraterritoriality

Now that a new Chinese national tariff is in force, and complete tariff autonomy seems assured, the outstanding issue between China and the powers as a whole relates to extraterritoriality. By treaty the nationals of 16 of the powers, including France, Great Britain, Japan and the United States, are now in China free from all jurisdiction of Chinese courts, being subject only to the control of their own consuls or own national courts established in China, and being tried under their own national laws. No matter what an American, for example, may do in China, he can not be brought before a Chinese tribunal.

This system of extraterritoriality was established by the supplementary treaty of 1843, following the treaty of Nanking of 1842 with Great Britain. The provisions were made more definite in the American treaty of Wanghia, 1844, and were elaborated and defined in various subsequent treaties. These privileges were then automatically

[1] MacMurray, *op. cit.*, Vol. I, p. 55, 107.

extended to all states enjoying most-favored-nation treatment. It is these states with extraterritorial rights which are known as "treaty-powers."[1]

The establishment of this system seemed to the foreigners reasonable and necessary on account of fundamental differences between the laws and judicial procedure of China and of the West, and the uncertainty of obtaining what the Occidental considers elementary justice in Chinese courts. This view is strikingly expressed by Mr. H. B. Morse, the outstanding foreign authority for the history of this period:

> The law of China was not the law of the West; the real point at issue, however, was not the difference in law but the uncertainty in its application — or, in plain terms, the certainty of corruption and bias in its administration.[2]

The Chinese maintain that, whatever the reasons for the introduction of extraterritoriality 80 years and more ago, its retention is no longer justifiable since the Chinese Government has made adequate changes in its law, its courts and its judicial administration to warrant the abolition of the whole system. The Chinese arguments were summarized at the Washington Conference by Dr. Wang Chung-hui, Chief Justice of the Supreme Court of China:

a. In the first place, it is in derogation of China's sovereign rights, and is regarded by the Chinese people as a national humiliation.

b. There is a multiplicity of courts in one and the same locality, and the interrelation of such courts had given rise to a legal situation perplexing both to the trained lawyer and to the layman.

c. Disadvantages arise from the uncertainty of the law. The general rule is that the law to be applied in a given case is the law of the defendant's nationality, and so, in a commercial transaction

[1] The list includes Belgium, Brazil, the British Empire, Denmark, France, Italy, Japan, Mexico, the Netherlands, Norway, Peru, Portugal, Spain, Sweden, Switzerland and the United States.

[2] Morse, H. B., The Trade and Administration of the Chinese Empire, quoted in *Foreign Policy Association, Information Service*, December 18, 1925.

between, say, X and Y of different nationalities, the rights and liabilities of the parties vary according as to whether X sued Y first, or Y sued X first.

d. When causes of action, civil or criminal, arise in which foreigners are defendants, it is necessary for adjudication that they should be carried to the nearest consular court, which might be many miles away; and so it often happens that it is practically impossible to obtain the attendance of the necessary witnesses or to produce other necessary evidence.

e. Finally, it is a further disadvantage to the Chinese that foreigners in China, under cover of extraterritoriality, claim immunity from local taxes and excises which the Chinese themselves are required to pay. Sir Robert Hart, who worked and lived in China for many years, had said in his book, "These from the Land of Sinim," "The extraterritoriality stipulation may have relieved the native official of some troublesome duties but it has always been felt to be offensive and humiliating, and has ever a disintegrating effect, leading the people, on the one hand, to despise their own Government and officials, and, on the other, to envy and dislike the foreigner withdrawn from native control." [1]

Some of these defects of the extraterritorial system, such as those relating to the multiplicity of courts and the uncertainty of the law, operate to the disadvantage of the foreigners as well as of the Chinese. In addition, as Justice Wang pointed out, "until the system is abolished or substantially modified, it would be inexpedient for China to open her entire territory to foreign trade and commerce." [2] Thus far the right of foreigners to reside in China for purposes of trade has been confined to certain towns and cities, known as "open-ports" or "treaty-ports." Thoughtful foreigners realize the objections to extraterritoriality; and the leading powers have for years pledged themselves to give up their rights in this respect as soon as China's laws and judicial system should promise reasonable justice to foreign lives and property. Such a promise was incorporated in the treaties which Great

[1] *Conference on the Limitation of Armament*, Washington, 1921–1922, p. 932–933; 67th Cong., 2d. sess., Sen. Doc. No. 126, p. 475.

[2] *Ibid.*, p. 934.

Britain, Japan and the United States signed with China in 1902 and 1903. The British treaty of September 5, 1902, stated:

> China having expressed a strong desire to reform her judicial system and to bring it into accord with Western nations, Great Britain agrees to give every assistance to such reform, and she will also be prepared to relinquish her extraterritorial rights when she is satisfied that the state of the Chinese laws, the arrangements for their administration and other considerations warrant her in so doing.[1]

Articles containing the same terms appeared in the commercial treaties of 1903 with the United States and with Japan.[2] Sweden declared in her treaty of 1908 with China that "as soon as all the other treaty-powers have agreed to relinquish their extraterritorial rights, she also will be prepared to do so."[3]

The Chinese Government has made earnest efforts, especially from 1903, to bring its laws and legal system into greater harmony with Western standards. At the Paris Peace Conference the Chinese delegation asked for the immediate modification and the early abolition of extraterritoriality; and asserted that China, since 1903, had made considerable progress in improving the administration of justice, pointing to such evidence as the preparation of five new codes of laws, the establishment of new courts, the separation of civil and criminal cases, and improvements in the prison and police systems. No action, however, was taken by the conference.[4]

At the Washington Conference, Justice Wang Chung-hui asked on behalf of the Chinese delegation

> that the powers now represented at this conference agree to relinquish their extraterritorial rights in China at the end of a definite period. In the meanwhile, he proposed that the above-mentioned

[1] MacMurray, *op. cit.*, Vol. I, p. 351.
[2] *Ibid.*, p. 431, 414.
[3] *Ibid.*, p. 745.
[4] Willoughby, *op. cit.*, Vol. II, p. 670–672.

powers should, at a date to be agreed upon, designate representatives to enter into negotiations with China for the adoption of a plan for a progressive modification and ultimate abolition of the system of extraterritoriality in China, the carrying out of which plan was to be distributed over the above-mentioned period.[1]

The conference, however, felt that it would be desirable first of all to ascertain whether justice was administered in China in such a manner as to afford the powers and their nationals all necessary guaranties. As a result, it provided for the appointment of a commission on extraterritoriality, to visit China and "to inquire into the present practice of extraterritorial jurisdiction in China, and into the laws and the judicial system and the methods of judicial administration of China."[2]

The commission met in China in January, 1926, and continued its investigation until September, when it drew up a report which was signed by all of the commissioners of the 13 powers represented on the commission: Belgium, the British Empire, China, Denmark, France, Italy, Japan, the Netherlands, Norway, Portugal, Spain, Sweden and the United States of America. The Chinese commissioner, however, signed with reservations.

The main point of the report is that conditions in China do not warrant the immediate abolition of extraterritoriality. The commission, however, makes clear the outstanding defects of the existing system: the multiplicity of the courts, the diversity of laws, the inaccessibility of many of the extraterritorial tribunals, the lack of satisfactory legal and judicial training of many of the consular judges, the difficulty of appeals to the home courts of foreign countries, the freedom of foreigners from Chinese regulations and the inviolability of foreign premises which makes them places of refuge for Chinese who are wanted by Chinese authorities. The commission speaks well of the progress already made by China in revising its judicial system: the new codes drawn up, the modern courts and

[1] *Conference on the Limitation of Armament*, p. 934–936.

[2] *Ibid.*, p. 1644.

prisons, and the specially trained judges. But it points out that much still remains to be done: essential codes and laws are lacking; the modern courts and trained judges are too few; the magistrate's courts and the police courts are unsatisfactory; the existing laws rest upon an uncertain legal and constitutional basis, being largely presidential proclamations; the courts and the judges are not independent, being frequently interfered with by executive officials and especially military commanders; and financial support for the courts is not adequate.

After indicating the steps which need to be taken to bring the Chinese judicial system to a proper standard, the report stated:

> The commissioners are of the opinion that, when these recommendations shall have been reasonably complied with, the several powers would be warranted in relinquishing their respective rights of extraterritoriality.
>
> It is understood that, upon the relinquishment of extraterritoriality, the nationals of the powers concerned will enjoy freedom of residence and trade and civil rights in all parts of China in accordance and with the general practice in intercourse among nations and upon a fair and equitable basis.

The report continued:

> It is suggested that, prior to the reasonable compliance with all the recommendations above mentioned but after the principal items thereof have been carried out, the powers concerned, if so desired by the Chinese Government, might consider the abolition of extraterritoriality according to such progressive scheme (whether geographical, partial, or otherwise) as may be agreed upon.

The commission recommended also that, pending the abolition of extraterritoriality, the powers "should make certain modifications in the existing systems and practice of extraterritoriality." These would include, in addition to the development of necessary arrangements in regard to judicial assistance between the Chinese authorities and those of the extraterritorial powers, the following points:

The powers concerned should administer, so far as practicable, in their extraterritorial or consular courts such laws and regulations of China as they may deem it proper to adopt.

As a general rule mixed cases between nationals of the powers concerned as plaintiffs and persons under Chinese jurisdiction as defendants should be tried before the modern Chinese courts without the presence of a foreign assessor. . . With regard to the existing special mixed courts, their organization and procedure should, as far as the special conditions in the settlements and concessions warrant, be brought more into accord with the organization and procedure of the modern Chinese judicial system. . . .

The extraterritorial powers should correct certain abuses which have arisen through the extension of foreign protection to Chinese as well as to business and shipping interests the actual ownership of which is wholly or mainly Chinese. . . . [And should] require compulsory periodical registration of their nationals in China. . . .

Pending the abolition of extraterritoriality, the nationals of the powers concerned should be required to pay such taxes as may be prescribed in laws and regulations duly promulgated by the competent authorities of the Chinese Government and recognized by the powers concerned as applicable to their nationals.[1]

Since the report was published, neither China nor the powers have carried out completely the recommendations of the commission; but both have taken steps in that direction. China has been revising and codifying its laws; the new criminal code was promulgated on March 10, 1928, and the new code of criminal procedure, on July 28 of the same year; while the civil code and commercial code, necessary to complete the series, are now being drafted by the Legislative Yuan, and, the Nanking Government states, will be promulgated on or before January 1, 1930.[2] New courts have been established and

[1] *Report of the Commission on Extraterritoriality in China*, Peking, September 16, 1926. Washington. Government Printing Office. Recommendations, p. 107–109; for the declaration of the Chinese commissioner, see *China Year Book, 1928*, p. 447–456.

[2] See Annex II of preliminary treaty of amity and commerce with Italy and identic treaties with Belgium, Denmark, Portugal and Spain; also China's identic note to six powers concerning the abolition of extraterritoriality, April 27, 1929, *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 64.

additional judges appointed. The National Government is laying special emphasis upon legal education throughout the country; and, as Justice Wang Chung-hui has recently pointed out, is planning "ultimately to take the judicial power from the hands of the local magistrates and place it in the hands of those who are specially trained for performing judicial duties." [1]

The outstanding action of the powers in carrying out the recommendations of the commission has been the rendition of the mixed court in the International Settlement in Shanghai. This court was originally a Chinese institution for the trial of cases in which the defendants were Chinese or non-extraterritorial foreigners. A foreign assessor, or representative of one of the local consulates, was permitted to sit with the Chinese judge in cases in which an extraterritorial foreigner was plaintiff. In 1911, however, on account of the breakdown of local authority due to the revolution of that year, it seemed necessary to the Shanghai consular body to take over control of the court. The judges were still Chinese but they served under the authority of foreigners. The mixed court, therefore, functioned after 1911 without treaty sanction. For years the Chinese had demanded the return of the court to Chinese jurisdiction. Finally, on February 1, 1927, a provisional rendition was effected by an agreement,[2] made between the Shanghai consular body and the Kiangsu Provincial Government, which is to hold for three years. The court is now termed the Shanghai Provisional Court, and is under control of the Kiangsu province, although deputies of the consuls may still sit with the Chinese judges in cases in which the peace and order of the International Settlement is concerned, or in which a foreigner enjoying extraterritorial rights is plaintiff or complainant. Within this 3-year period, it is stipulated that the Chinese central Government and the foreign ministers may nego-

[1] Address, Dr. Wang Chung-hui, President of the Judicial Yuan, January 30, 1929, *Week in China*, February 16, 1929, Vol. XII, p. 125–130.

[2] This agreement had received the previous approval of the heads of legations accredited in China.

tiate for a final settlement.[1] Now that the court is again under Chinese authority, it is severely criticized by many of the foreigners in Shanghai on the ground that the judges are under political influence and the judicial standards are not adequately high.

The National Government at Nanking, with its victory in gaining tariff autonomy practically assured, increased its efforts in the late months of 1928 to induce the powers to abandon extraterritoriality. Its position was strengthened by the fact that several of the former treaty-powers had already lost these rights. Germany and Austria-Hungary had these privileges canceled by China when it declared war against the Central Powers in 1917. They recognized the loss by treaty: Germany by express provision of the Sino-German agreement of 1921;[2] Austria by implication by Art. 234 of the treaty of Saint-Germain, 1919, and by express provision of the Sino-Austrian treaty, October 19, 1925;[3] and Hungary by Art. 217 of the treaty of Trianon, 1920. Russia was deprived of its extraterritorial rights in 1920 by decree of the Chinese Government; and in the Sino-Soviet agreement of May 31, 1924, pledged itself to renounce them. The nationals of Austria, Germany, Hungary and Russia are therefore subject to the jurisdiction of Chinese courts. In the same situation are the nationals of most of the Latin-American republics, and of such European countries as Czechoslovakia, Estonia, Latvia, Lithuania, Poland, Rumania and Serb-Croat-Slovene State.[4] Two of the 16 states which are now en-

[1] *China Year Book, 1928*, p. 465–475; *Report of the Commission on Extraterritoriality in China*, p. 16; Willoughby, *op. cit.*, Vol. I, Chap. XXI; see further, *infra*, p. 31.

[2] The exchange of notes accompanying the Sino-German agreement of May 20, 1921, contained the important assurance: "All lawsuits in China in which Germans are involved will be decided before the newly-established courts, with right to appeal. These lawsuits will be conducted in accordance with the regular procedure. German barristers and interpreters, officially accredited to the courts, may act as counsel during the proceedings." League of Nations, *Treaty Series*, Vol. IX, p. 288; Hornbeck, *op. cit.*, p. 521. A similar provision is contained in Art. IV of the Sino-Austrian treaty of October 19, 1925.

[3] League of Nations, *Treaty Series*, Vol. LV, p. 21 (Art. IV).

[4] For the regulations of the Nationalist Government issued July 8, 1928, regarding the treatment of foreigners who do not now enjoy extraterritoriality, see Appendix.

titled to the rights of extraterritoriality,[1] Sweden and Switzerland, promised at the signing of their treaties with China in 1908 and 1918, respectively, to relinquish these rights as soon as the other powers should do so; and Mexico, in an exchange of notes with the Chinese Government, 1921, agreed to insert a clause in the formal amendment to the treaty of 1899 in which it would renounce its consular jurisdiction in China.[2]

A further and notable success in the effort to abolish extraterritoriality was achieved by the Chinese Government toward the close of 1928 by the negotiation of treaties with five powers, Belgium, Denmark, Italy, Portugal and Spain, in which, in addition to granting tariff autonomy, they renounced extraterritoriality in principle and promised to give up their extraterritorial rights when the other powers should do so.[3] The terms of the five treaties are similar and the articles of the last four are practically identic.

In Art. II of these treaties, the five powers renounce extraterritoriality in principle. This article reads in the Italian treaty which is identic — excepting only the names of the various powers — with the article in the Danish, Portugese and Spanish treaties:

> The nationals of each of the two high contracting parties shall be subject, in the territory of the other party, to the laws and jurisdiction of the law courts of that party, to which they shall have free and easy access for the enforcement and defense of their rights.

In Annex I of these four treaties by an exchange of notes, however, it is provided that Art. II

[1] For a list of these 16 states, see footnote, p. 20.

[2] *Report of the Commission on Extraterritoriality in China*, p. 10.

[3] These treaties were signed in the following order: Belgium, November 22; Italy, November 27; Denmark, December 12; Portugal, December 19; and Spain, December 27, 1928. For the text of the treaties, see *Chinese Social and Political Science Review*, Public Documents Supplement, January, 1929, Vol. XIII, p. 7–51, and Appendix, *infra*.

shall be understood to begin to be operative on January 1, 1930. Before such date the Chinese Government will make detailed arrangements with the Italian Government for the assumption by China of jurisdiction over Italian subjects. Failing such arrangements on the said date, Italian subjects shall be amenable to Chinese laws and jurisdiction from a date to be fixed by China, after having come to an agreement for the abolition of extraterritoriality with all the powers signatory of the Washington treaties, it being understood that such a date shall be applicable to all such powers.

By "powers signatory of the Washington treaties" shall be meant those powers, other than China, which directly participated in the discussion of Pacific and Far Eastern questions in the Conference on the Limitation of Armament held in Washington in 1921–1922.

In the Belgian treaty, this latter condition is worded somewhat differently: "Belgian subjects shall thereafter be amenable to Chinese laws and jurisdiction as soon as the majority of the powers now possessing extraterritorial privileges in China shall have agreed to relinquish them."

In additional annexes, China states "that on or before January 1, 1930, the Civil Code and the Commercial Code, in addition to other codes and laws now in force, will be duly promulgated by the National Government of the Republic of China;" and the five powers agree that their citizens in Chinese territory "shall hereafter pay such taxes or imposts as may be prescribed in the laws and regulations duly promulgated [by the Chinese Government], provided that such taxes or imposts are not other or higher than those paid by the nationals of any other country." [1] Further, China made the important declaration that, after the abolition of extraterritoriality and other similar privileges, the nationals of these five countries, on the basis of reciprocity, shall "enjoy the right to live and trade and to acquire property in any part of . . . China, subject to the limitations to be prescribed in its laws and regulations."

[1] Wording of the Danish, Portugese and Spanish treaties.

These treaties are of great importance in preparing the way for the abolition of extraterritoriality. The five powers renounce extraterritoriality in principle, and apparently look forward to the surrender of their extraterritorial privileges at an early date. But it is clear that the treaties obligate them no further than to give up these rights when eight or nine other powers shall take the same action. Denmark, Italy, Portugal and Spain are not required to surrender extraterritoriality until all of the eight Washington Conference powers, other than China, do the same; that is, until this action shall be taken by Belgium, the British Empire, France, Italy, Japan, the Netherlands, Portugal and the United States. Belgium is not obligated to surrender extraterritoriality until a majority of the powers now enjoying such rights do so; that is, until nine of the 16 treaty-powers shall take this action.

Following up the advantage gained by the negotiation of these five treaties, the Chinese Minister of Foreign Affairs, Dr. C. T. Wang, handed identic notes, dated April 27, 1929, to the American, British and French ministers, and similar notes at the same time to the Brazilian, Dutch and Norwegian legations, in which he expressed the desire of the Chinese Government for the abolition of extraterritorial privileges as soon as possible. The note reads in part:

> It goes without saying that extraterritoriality in China is a legacy of the old regime, which has not only ceased to be adaptable to the present-day conditions, but has become so detrimental to the smooth working of the judicial and administrative machinery of China that her progress as a member of the family of nations has been unnecessarily retarded. . . .
>
> With the close contact between China and the foreign powers, the assimilation of western legal conceptions by Chinese jurists and incorporation of western legal principles in Chinese jurisprudence have proceeded very rapidly. In addition to the numerous codes and laws now in force, the civil code and the commercial code have reached the final stage of preparation and will be ready for promulgation before January 1, 1930. Courts and prisons, along

modern lines, have been established, throughout the whole country. . . .

. . . It may be pointed out that certain countries, having ceased to enjoy extraterritorial privileges in China, have found satisfaction in the protection given to their nationals by Chinese law and have had no cause for complaint that their interests have been in any way prejudiced.[1]

This communication was followed by another identic note from Minister C. T. Wang, May 8, to the American, British, Dutch and French ministers and the Brazilian and Norwegian chargé d'affaires, asking that the Shanghai Provisional Court should be placed under the direct and undivided control of the Chinese National Government. The note stated that notwithstanding the change effected on February 1, 1927,

the position of the new court is still anomalous and its system remains confusing, being different from that of the whole country. The inconveniences arising therefrom have caused much complaint and dissatisfaction on the part of the people.[2]

A few days after this official Chinese note was published, a statement was drawn up by the foreign Chambers of Commerce of the International Settlement, and sent to their various home Governments, in which they claimed that the Provisional Court had become a menace to the law and order of the Settlement, and urged the powers concerned not to relinquish their extraterritorial rights at the present time. The chief charge contained in the document was that the court had been used, since its rendition in 1927, as a department of the Government for the furtherance of political ends and not the ends of justice. To meet the situation the statement makes a plea for a municipal court to be under the Municipal Council of the International Settlement with jurisdiction over civil and

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 64; *Current History*, June, 1929, p. 538–539.

[2] *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 66.

criminal disputes arising within the International Settlement.[1]

In reply to the Chinese communication, the senior minister of the powers at Peiping sent to Minister Wang, June 7, 1929, a note on behalf of all the heads of the legations concerned, including not only the six to whom the note of May 8 was addressed, but also the diplomatic representatives of Belgium, Denmark, Italy, Japan, Portugal, Spain and Sweden. The note proposed that

> the question of the reorganization of the present court should be examined on behalf of the heads of the legations concerned by a commission chosen from among their local representatives together with representatives of the Chinese Government and that the conclusions thus arrived at should in due course be submitted to the several ministers and to the National Government of China. I am desired by my colleagues to add in this connection that the ministers concerned can not disguise from themselves the fact that certain unsatisfactory features in the functioning of the court under the said agreement of 1926 have been due to external political and administrative interference with its operation and that they regard it as essential that these external influences should be excluded in future.[2]

Minister Wang declined the proposal in an identic note of July 3 in which he stated that, "the said question is not of a local character and ought not to be left to local representatives to examine and discuss." He requested the ministers of the powers concerned to open negotiations immediately and directly with the Nanking ministry of foreign affairs.[2]

The Chinese authorities are clearly hopeful of an early abolition of extraterritoriality. The United States, however, and the other leading powers which still possess extraterritorial rights sent to China, August 10, official replies to Minister C. T. Wang's note of April 27, in which they declined to surrender their extraterritorial privileges com-

[1] *New York Times*, May 19, 1929.
[2] *Week in China*, July 27, 1929, Vol. XII, p. 582.

pletely at the present time. The notes have not at this writing — September 1 — been released for publication.

The real issue is not whether extraterritoriality is to be abandoned; all thoughtful persons are agreed upon that. Great Britain, Japan and the United States stated in treaties, as long ago as 1902 and 1903, that they would give up these rights when the condition of Chinese justice should warrant them in doing so. And the American Secretary of State, Frank B. Kellogg, said in a formal statement, January 27, 1927:

> The United States is prepared . . . to negotiate the release of extraterritorial rights as soon as China is prepared to provide protection by law and through her courts to American citizens, their rights and property.[1]

The issue is whether this situation long-foreseen has at length arrived. And if so, whether the rendition should be absolute and immediate or subject to safeguards and ad interim regulations.

Treaty Revision

The problem of extraterritoriality involves the legal issue of the continuing validity of many of the treaties made between China and the leading treaty-powers. The Chinese Government has made it clear by word and deed that it will sign no additional "unequal treaties" and will take every available opportunity to terminate existing treaties which grant such exceptional privileges as extraterritoriality. This situation naturally raises the question as to China's legal right to terminate certain of these treaties; and as to this there has been and still is a sharp difference of opinion between China and some of the treaty-powers.

These old treaties when originally signed normally contained an article providing that they should be valid for

[1] Hornbeck, *op. cit.*, p. 550.

a period of 10 years; that at the end of a 10-year period, under stipulated conditions, a revision of the treaty might be made; but that if no revision should be made, the treaty would be valid for another 10-year period, and so on from term to term. China has adopted the policy of forcing a revision of these treaties as they came to the close of a 10-year period, or of declaring them terminated. It is China's claim of a right to terminate them which has been an acute issue. These articles relating to revision are not uniform in the various treaties, and in some cases, according to the interpretation of certain foreign powers, state conditions which China is unwilling to accept.

The Belgian treaty furnished the first important test case. Since the Sino-Belgian treaty of November 2, 1865, came into force with the exchange of ratifications, October 27, 1866, a 10-year period came to an end October 27, 1926. The Chinese Government gave early notice to Belgium that it desired to terminate the treaty upon this date, and to negotiate a new agreement "on the basis of equality and reciprocity." Belgium was willing to make a new treaty, but after long negotiations the two Governments were unable to agree upon the conditions of ad interim regulations. China, therefore, by presidential decree, November 6, 1926, declared that the treaty having expired October 27, 1926, had ceased from that date to be binding. Belgium, however, relying upon its strict legal rights maintained that the old treaty was still in force since by its terms it could not be revised or terminated except upon the initiative of the Belgian Government. Art. 46 of the treaty of 1865 reads:

> Should the Government of His Majesty the King of the Belgians judge it necessary in the future to modify certain clauses of the present treaty, it shall be free to open negotiations to this end after an interval of 10 years from the date of the exchange of ratifications; but six months before the expiration of the 10-year period, it must officially inform the Government of His Majesty the Emperor of China of its intention to make such modifications and in what they consist. In the absence of this official announcement the treaty

shall remain in force without change for a new term of 10 years and so on from 10 years to 10 years.

Belgium informed the Chinese Government that it intended to submit to the Permanent Court of International Justice their dispute regarding the interpretation of this article, since both Governments had accepted the "optional clause" of the Statute of the Court, which bound them to refer to the jurisdiction of the Court legal issues involving "the interpretation of a treaty." The Statute of the Court also provided that:

> In the event of a dispute as to whether the Court has jurisdiction in these cases, the matter shall be decided by a decision of the Court.

The Chinese Government refused to participate in the submission of this issue, on the ground that it was essentially political and not legal in character. In the words of the Chinese note of November 16, 1926:

> The real question at bottom is that of the application of the principle of equality of treatment in the relations between China and Belgium. It is political in character and no nation can consent to the basic principle of equality between states being made the subject of a judicial inquiry. . . . Consequently, if an appeal is to be made to an international tribunal at all, the Chinese Government believe that it should be brought before the Assembly of the League by virtue of Art. 11 (and 19) of the Covenant.[1]

The Belgian Government, however, in accordance with its legal rights under the Statute of the Court, filed a unilateral application, November 26, 1926, asking the Court to

[1] For Sino-Belgian treaty revision to January 1, 1928, see *China Year Book, 1928*, p. 766–786.

Article 19 of the Covenant of the League of Nations reads:

"The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable, and the consideration of international conditions whose continuance might endanger the peace of the world."

Article 11 of the Covenant reads in part:

"It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends."

give judgment that the Chinese Government was not entitled to denounce the treaty, and requesting the Court, pending such judgment, to order provisional measures to be taken by China for the preservation of Belgian rights and nationals in that country. The Court did make an order, January 8, 1927, decreeing the measures of protection to which Belgium was provisionally entitled. But negotiations were resumed and Belgium, therefore, in accord with the wishes of China asked that the order be revoked, to which the Court agreed. No decision was rendered upon the main issue, whether China was legally justified in terminating the treaty of 1865. Belgium seemed satisfied to keep the question pending during the continuance of treaty negotiations. But after the ratification of the Sino-Belgian treaty of November 22, 1928, the Belgian Government informed the Court that it intended to break off the action which it had instituted against China; and the Court in consequence declared, May 25, that the proceedings were terminated.[1]

A number of treaties which definitely grant extraterritorial rights to other powers contain the provision that at the end of 10-year periods a revision may be asked for "of the tariff or the commercial articles of this treaty." Such an article appears in the treaties with Spain of October 10, 1864; Portugal, December 1, 1887; Italy, October 26, 1866, and Denmark, July 13, 1863. The wording of the article in the Spanish treaty, which is similar to the others, reads:

> Art. XXIII. Either of the two high contracting parties may at the end of ten years ask for a revision of the tariff or the commercial articles of this treaty, with the understanding that if such request be not made within six months, reckoned after the first 10 years, the said tariff will continue to be in force for 10 years longer, reckoned in addition to the preceding 10 years, and so on every 10 years.[2]

[1] Publications of the Permanent Court of International Justice, Series A, Nos. 8, 14, 16, 18. A partial summary is in Manley O. Hudson, *The World Court, 1922–1929*, p. 33–35.

[2] *China. Maritime Customs. Treaties, Conventions, etc.*, Vol. II, p. 382.

On the basis of this and similar articles the Chinese Government during the two years, 1926–1928, terminated these four treaties in their entirety as from the expiration of the decennial periods.[1] The four powers protested against the legality of this action; insisted that the treaties were still in force, and maintained that, while they were quite willing to undertake negotiations for new treaties, the Chinese Government had no authority to terminate the treaties as a whole and were entitled only to ask for a revision of the articles dealing with the tariff and commerce.[2] No decision was reached on this legal issue of treaty interpretation, since Denmark, Italy, Portugal and Spain, as well as Belgium, signed new treaties with China in November and December, 1928. It is to be noted that the only treaty-powers which have negotiated new agreements with China dealing with both the tariff and extraterritoriality are these powers whose treaties China has declared terminated.

Japan's most important treaty with China furnishes still further complications. It was signed July 21, 1896, and ratifications were exchanged the following October 20. It reached a 10-year period, therefore, October 20, 1926. China asked for a complete revision of the treaty but by mutual agreement with Japan continued it in force for short periods until July 19, 1928, when the National Government announced the termination of the treaty as of July 20. Art. XXVI which deals with revision reads:

> It is agreed that either of the high contracting parties may demand a revision of the tariffs and of the commercial articles of this treaty at the end of 10 years from the date of the exchange of the ratifications; but if no such demand be made on either side and no such revision be effected, within six months after the end of the first 10 years, then the treaty and tariffs in their present

[1] In some cases the action was taken by the Peking Government; in others, by Nanking.

[2] *Chinese Social and Political Science Review*, Public Documents Supplement, January, 1928, Vol. XII, p. 1 *ff*; July, 1928, Vol. XII, p. 64; October, 1928, Vol. XII, p. 72–76; *China Year Book, 1928*, p. 1402–1405.

form shall remain in force for 10 years more, reckoned from the end of the preceding 10 years, and so it shall be at the end of each successive period of 10 years.[1]

This article not only appears to limit the right of revision to the tariff and the commercial articles but is open to the interpretation that a proposed revision, to be effective, must be completed within six months after the close of the 10-year period. The treaty is of great importance to Japan since it contains grants of extraterritoriality and the most-favored-nation treatment. Japan replied to the Chinese note, July 31, 1928, in part as follows:

There is no stipulation providing for the abrogation or expiration of the treaty. It is natural, therefore, that the treaty can neither be abrogated nor terminated without special mutual consent or agreement between both contracting parties. Further, as it is expressly stipulated in the provisions of the same article that if the negotiations for the revision were not completed within six months, then the treaty and tariffs should remain in force for 10 years more, it admits of no doubt that the treaty and tariffs should remain in force for another 10 years. . . .

The treaties[2] and the accompanying documents being, for the above reasons, still in force . . . if the Nationalist Government should persistently attempt to enforce the so-called "provisional regulations" unilaterally, the Japanese Government declare hereby that they may be obliged to take such measures as they deem suitable for safeguarding their rights and interests assured by the treaties.[3]

This dispute as to the termination or the continuing validity of the Sino-Japanese treaty became involved with

[1] MacMurray, *op. cit.*, Vol. I, p. 73.

[2] The treaty of 1896 was supplemented by one signed in 1903.

[3] *Chinese Social and Political Science Review*, Public Documents Supplement, October, 1928, Vol. XII, p. 73. For China's reply of August 14, see *Week in China*, September 1, 1928, Vol. XII, p. 3–5. For earlier negotiations, see *China Year Book, 1928*, p. 786–788. For a defense of the Chinese position, see *Chinese Affairs* (issued by the International Relations Committee, Shanghai) August 11, 1928, p. 2.

other issues between the two countries and has remained unsettled up to the present time.[1]

In its efforts to do away with the unequal treaties, China has relied not only upon the terms of the treaties themselves, but also upon the general principle in international law known as *rebus sic stantibus* (conditions remaining as they are), in accordance with which fundamental changes in the implied conditions under which treaties were signed render them voidable. It is admitted by legal publicists, however, that this principle is dangerously elastic. Fenwick, in his recent *International Law*, says:

> The most difficult problem presented by international treaties, and the one in respect to which the fundamental law of the faith of treaties has been put to its crucial test, is the question whether a state is released from its treaty obligations by reason of an essential change of the circumstances under which the treaty was concluded. On this point international law gives but a vague and unsatisfactory answer. Publicists would appear to be correct in stating as a rule of positive law the general principle that all international contracts are entered into under certain implied conditions. . . . Every contract, according to Roman law, carries with it the implication, *rebus sic stantibus*. But when this is said, it remains to determine what are the implied conditions attending the making of a treaty. It is conceded that one of these conditions is that the treaty be faithfully observed on both sides.[2]

The Chinese have frequently referred to the clause *rebus sic stantibus* in their diplomatic correspondence during the past two or three years. A good statement of the Chinese view of this legal principle was given in an address, January 30, 1929, by Dr. Wang Chung-hui, President of the Judicial Yuan of the National Government and

[1] Additional notes, April 26 and 27, 1929, were exchanged between Japan and China without essentially modifying the position previously taken by each; but the two Governments agreed to continue their negotiations for a new treaty. See *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 59.

[2] Fenwick, Charles G., *International Law*, p. 344–345.

a Deputy-Judge on the Permanent Court of International Justice at The Hague:

The extraterritoriality régime is destined to go for many reasons. In the first place, its existence impairs China's sovereignty and can no longer be tolerated by the Chinese people. In the second place, according to the well-known principle of international law, *rebus sic stantibus*, changed conditions demand treaty revisions. This view is strengthened by Art. 19 of the covenant of the League of Nations which reads as follows:

"The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable, and the reconsideration of international conditions whose continuance might endanger the peace of the world."

Some 80 years ago when the system of extraterritoriality was introduced there was only a very small number of foreigners in China. They confined their residence and activities in a few treaty-ports. To-day their number is greatly increased and they scatter themselves outside of the treaty-ports. Eighty years ago Chinese law was radically different from Western law. To-day our law is modelled after the Western system. The economic changes during the extraterritorial period of some 80 years have brought about fundamental changes in the relation between the Chinese people and foreigners in China. Extraterritoriality, as a *modus vivendi*, aimed at producing good relations between the Chinese and foreigners in China. To-day it is bound to produce harmful consequences contrary to its original aim.[1]

The Japanese view of the principle of *rebus sic stantibus* in its application to their treaty with China is presented in their recent note of April 26, 1929:

But not only is the so-called principle of altered circumstances incapable of being regarded as an established rule of law in international relations, but the admission of such a principle would render almost all treaties liable to repudiation at the pleasure of either of the contracting parties, thus shaking the very foundations of international law. Nor is there any precedent where such a principle has ever had actual application. That there exists a specific provision concerning the validity of the treaty shows,

[1] *Week in China*, February 16, 1929, Vol. XII, p. 128–129.

not that the possibility of circumstances being altered in the future was not taken into consideration, but that care was taken that no such alteration of circumstances should of itself render the treaty null and void.[1]

The British Government makes certain statements, which may have a bearing upon the principle of *rebus sic stantibus*, in its memorandum, December 18, 1926, addressed to the Washington treaty-powers:

> While calling upon China to maintain that respect for the sanctity of treaties which is the primary obligation common to all civilized states, the powers should yet recognize both the essential justice of the Chinese claim for treaty revision and the difficulty under present conditions of negotiating new treaties in place of the old, and they should therefore modify their traditional attitude of rigid insistence on the strict letter of treaty rights. . . .
>
> The basic facts of the present situation are that the treaties are now admittedly in many respects out of date. . . .
>
> His Majesty's Government attach the greatest importance to the sanctity of treaties, but they believe that this principle may best be maintained by a sympathetic adjustment of treaty rights to the equitable claims of the Chinese.[2]

The Chinese Government has already obtained marked success in its efforts to terminate the old unequal treaties and negotiate new agreements "on the basis of complete equality and mutual respect for each other's sovereignty." New general treaties in accord with this principle have been signed with Austria (1925), Bolivia (1919), Finland (1926), Germany (1921 and 1928), Persia (1920), Poland (1928) and Russia (1924). Eleven treaties granting tariff autonomy to China were signed in 1928, as has already been pointed out, five of which renounce extraterritoriality in principle.[3] These five treaties, with Belgium, Denmark, Italy, Portugal and Spain, all contain in addition an article

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 60.

[2] *China Year Book, 1928*, p. 757–759.

[3] See footnote *supra*, p. 28.

which is identic for the last four treaties and similar in the Belgian treaty, which reads:

> The two high contracting parties have decided to enter as soon as possible into negotiations for the purpose of concluding a treaty of commerce and navigation based on the principles of absolute equality and nondiscrimination in their commercial relations and mutual respect for sovereignty.[1]

The next step for the Chinese Government will be to attempt to negotiate new treaties with the four powers whose interests in China are greatest — Great Britain, France, Japan and the United States — by which they will relinquish immediately or progressively the remaining exceptional rights which they now enjoy in China. Japan's attitude on this issue has already been presented. As for Great Britain, two of its important treaties with China come to an end of 10-year periods in 1930 and 1933 respectively: the treaty of Tientsin of June 26, 1858, on October 24, 1930; and the Sino-British commercial treaty of September 5, 1902, on July 28, 1933. The treaty of Tientsin which grants extraterritorial rights contains an article regarding revision, which as in the Danish, Italian, Spanish and Portuguese treaties already described, may be interpreted to limit the revision to the tariff and the commercial articles:

> It is agreed that either of the high contracting parties to this treaty may demand a further revision of the tariff and of the commercial articles of this treaty at the end of 10 years, but if no demand be made on either side within six months after the end of the first 10 years, then the tariff shall remain in force for 10 years more, reckoned from the end of the preceding 10 years; and so it shall be, at the end of each successive 10 years.[2]

The commercial treaty of 1902 has a similar article, which provides only for "a revision of the tariff at the end of 10

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, January, 1929, Vol. XIII, p. 10, 14, 18, 23, 48.

[2] *China. Maritime Customs. Treaties, Conventions, etc.*, Vol. I, p. 412.

years." [1] From the strictly legal point of view, therefore, a difference of interpretation may develop between China and Great Britain regarding the right to terminate either treaty in its entirety at the end of a 10-year period similar to the difference which developed between China and the four treaty-powers, Denmark, Italy, Portugal and Spain.

The first American treaty to come to a 10-year period is the Sino-American treaty for the extension of commercial relations, which was signed October 8, 1903, and is subject to revision January 13, 1934. Art. XVII on revision provides that "the tariff and the articles of this convention" may be revised; that is, the entire treaty.[2] This treaty contains many valuable provisions, particularly regarding trade and commerce, but it includes no especial grant of extraterritoriality. Such grants were made in earlier treaties and would not be affected by the termination of this treaty of 1903, which states in Art. XVII:

> It is agreed . . . that all the provisions of the several treaties between the United States and China which were in force on the 1st day of January, 1900, are continued in full force and effect, except in so far as they are modified by the present treaty or other treaties to which the United States is a party.[3]

The treaty of Wanghia, July 3, 1844, provides that after 12 years "inconsiderable modifications" may be made "in those parts which relate to commerce and navigation." [4] The Sino-American treaties of Tientsin, June 18, 1858, and the supplementary treaty of Peking, November 17, 1880, both include specific grants of extraterritoriality, yet appear to be permanent, for they contain no provision for revision.[5]

The United States, therefore, may claim that upon the

[1] *China. Maritime Customs. Treaties, Conventions, etc.*, Vol. I, p. 558.

[2] MacMurray, *op. cit.*, Vol. I, p. 431; Malloy, William M., *op. cit.*, Vol. I, p. 261.

[3] Malloy, *op. cit.*, Vol. I, p. 196, 261.

[4] *China. Maritime Customs. Treaties, Conventions, etc.*, Vol. I, p. 690; Malloy, *op. cit.*, Vol. I, p. 196.

[5] *China. Maritime Customs. Treaties, Conventions, etc.*, Vol. I, p. 713, 736; Malloy, *op. cit.*, Vol. I, p. 211, 239.

basis of a strict interpretation of its treaty rights it cannot legally be deprived of its extraterritorial privileges without its own consent.

The general Sino-French treaty of Whampoa, October 24, 1844, and of Tientsin, June 27, 1858, grant extraterritorial rights, but as to revision contain only the stipulation that after 12 years "the Government of the Emperor of the French" may undertake negotiations for modification of the various provisions. From a legal point of view these French treaties would appear to be in the same situation so far as the right of revision is concerned as was the Sino-Belgian treaty of 1865, which has already been described.[1]

Concessions and Settlements

The next most important issue between China and the powers relates to "concessions" and "settlements," that is, to sections of Chinese cities which are administered by foreigners. China demands that these be returned to complete Chinese control.

These concessions and settlements are situated in nine of the so-called treaty-ports, places opened by treaty to foreign residence and trade. In certain of these cities, such as Tientsin and Hankow, there are two or more concessions, each controlled by a different power. The present total number of concessions in China is 16.[2] In addition,

[1] *China.* Maritime Customs. *Treaties, Conventions, etc.*, Vol. I, p. 789, 834. For a table showing the status of China's treaties with various foreign powers prepared by the Treaty Revision Committee of the Ministry of Foreign Affairs of the National Government, see *Week in China*, November 24, 1928, Vol. XII, p. 6–8.

[2] PRESENT CONCESSIONS

Great Britain	*Japan*	*France*	*Italy*	*Belgium*
Amoy	Amoy	Canton	Tientsin	Tientsin
Canton	Hankow	Hankow		
Tientsin	Tientsin	Tientsin		
Chinkiang	Hangchow	Shanghai		
Newchwang	Soochow			

FORMER CONCESSIONS RECOVERED BY CHINA

Germany	*Russia*	*Great Britain*	*Austria-Hungary*
Tientsin (1917)	Tientsin (1920)	Hankow (1927)	Tientsin (1917)
Hankow (1917)	Hankow (1920)	Kiukiang (1927)	

See Hornbeck, *op. cit.*, p. 469; *China Year Book, 1928*, p. 1079–1083; 915–930; Morse, *op. cit.*, Chap. VIII; Bau, M. J., *China and World Peace*, p. 110.

there are settlements which are under foreign administration, the most important being the well-known International Settlement at Shanghai.

There is only a slight difference between a concession and a settlement. In the former the land is leased to a foreign power which pays a land tax to the Chinese Government and through its local consul subleases parcels of the land to foreign nationals. In a settlement the individual leaseholders acquire their land directly from the Chinese authorities.

In some treaty-ports foreigners in general reside in a foreign quarter where they carry on many of the functions of a municipality, but possess no official status as a self-governing administrative body. These areas are not concessions and although they are sometimes termed settlements they are not under the exclusive control of foreigners, and form no essential part of the issue between the treaty-powers and China.[1]

The origin of concessions and settlements dates back to the treaty of Nanking, 1842, which opened five ports of China to foreign trade and residence; and to the supplementary treaty, 1843, which provided that certain areas in these ports should be set aside for foreign grounds and houses. The right of local self-government rests upon "land regulations" issued by the consuls with the consent, expressed or implied, of the Chinese authorities. From a strictly legal point of view, however, it is difficult to find sufficient authority for the exercise by the foreigners of municipal self-government, since the rules and regulations of the concessions and settlements were in most cases not issued by the direct authority of the sovereign state. But the exercise of these municipal rights was

[1] Morse, *op. cit.*, p. 221. For an instance of express provision that certain treaty ports are not to contain foreign administrations, see Sec. 12 of Art. VIII of the Sino-British treaty of 1902 (MacMurray, *op. cit.*, Vol. I, p. 349): "Foreigners residing in these open ports are to observe the municipal and police regulations on the same footing as Chinese residents, and they are not to be entitled to establish municipalities and police of their own within the limits of these treaty ports except with the consent of the Chinese authorities."

carried on for some decades, practically unchallenged by the Chinese Government.[1]

These concessions and settlements are semi-independent municipalities, under the sovereignty but not under the control of China. They are much like American cities, except that they have no political relations with the state in which they are situated. Their control extends over police, roads, buildings, sanitation and taxes. While they may issue municipal regulations they do not have courts of their own, but must depend upon Chinese mixed courts and consular and other foreign tribunals. They maintain their neutrality in time of civil war, and are regarded as legal asylums for political refugees from other parts of China. The form of government varies: many of the concessions are under the sole administration of the consul of the power to which the concession has been granted; in others the consul is assisted by a council, nominated or elected; while in the notable International Settlement at Shanghai the authority is vested in a Municipal Council now elected by both foreign and Chinese rate payers. The Legation Quarter at Peking, which by the Boxer protocol of 1901 was placed under the "exclusive control" of the legations, is administered by a commission appointed by the resident diplomatic representatives.

With their rising nationalism the feeling became intensified among the Chinese that these foreign-administered areas should be returned to Chinese control. Their point of view was expressed with moderation by the Chinese delegation at the Paris Peace Conference in 1919. They stated that the foreign jurisdiction over these concessions had "impaired the sovereignty of China and hampered her work of administration," and said further in part:

> When the country was first opened to foreign intercourse, the people were unaccustomed to associate with foreign nationals, and it was, therefore, deemed expedient to assign separate districts for

[1] Willoughby, *op. cit.*, Vol. I, p. 501; Hudson, Manley O., "International Problems at Shanghai," *Foreign Affairs*, October, 1927, Vol. VI, p. 75–88.

the use of the foreign merchants; and as these districts were undeveloped sections of the Chinese cities, it was desirable to organize some system of local government for the maintenance of public order and morals within the foreign communities. . . .

That whatever necessity there was for separate residence has entirely ceased to prevail appears clear from the fact that in such treaty-ports as Nanking and Changsha, where no foreign concessions exist, Chinese and foreigners live together in peace and friendship. . . .

Besides, China has in recent years made great progress in municipal government and believes herself prepared to assume the responsibilities for effective administration which will necessarily be implied in the desired restoration of the foreign concessions and settlements. [1]

The Chinese delegation therefore asked the powers concerned to enter upon negotiations for the restoration of these areas, the actual transfer to take place five years after the agreements had been effected. In the meantime China asked for certain immediate modifications of the existing régime:

1. That Chinese citizens shall have the right to own land in all the concessions and settlements under the same conditions as foreigners;
2. That Chinese citizens residing in the concessions shall have the right to vote in the election of members of the municipal councils and to be elected thereto;
3. That warrants issued and judgments delivered by competent Chinese courts outside the concessions shall be executed in the concessions without being subject to any revision whatsoever by the foreign authorities;
4. That in no foreign concession shall a foreign assessor be allowed to take part in the trial or decision of cases wherein Chinese citizens alone are concerned. [2]

The unfortunate incident of May 30, 1925, in the International Settlement at Shanghai, followed by somewhat

[1] Willoughby, *op. cit.*, Vol. I, p. 524–526.
[2] *Ibid.*, p. 527.

similar events in other cities greatly intensified both the desire and the determination of the Chinese to win back full control over these concessions and settlements.

They have had striking success in their efforts to regain these areas. Already they have secured the return of seven former concessions and appear well on the way to obtain two more. When China declared war on the Central Powers, it took over the German concessions in Tientsin and Hankow and the Austro-Hungarian concession in Tientsin; and these seizures were recognized as valid by the treaty of Versailles, 1919, and the Sino-German treaty of 1921, and by the treaty of Saint Germain-en-Laye, 1919. Further, when China terminated all relations with the old Tsarist régime, September 23, 1920, it took over the important Russian concessions in Tientsin and Hankow; and in the Sino-Soviet agreement of May 31, 1924, Russia recognized the new status of these former municipal areas. More recently, in the early part of 1927, influenced largely by the anti-foreign disturbances in the Yangtze, the Governments of Great Britain and China (Hankow) arranged by the Chen-O'Malley agreements, February 19 and March 2, to hand over to Chinese control the British concessions in Hankow and Kiukiang. The latter was retroceded without conditions, but a long detailed agreement was made for the future administration of the British concession area in Hankow.[1]

The two additional concessions which seem well on the way to a formal retrocession are the Belgian and the British areas in Tientsin. As early as January 17, 1927, the Belgian Minister at Peking informed the Chinese Government that Belgium was willing to retrocede its concession; but troublesome financial issues arose and the two Governments have not yet completed the details of the transfer. The British Government has also expressed its willingness to negotiate for the retrocession of its Tientsin concession. A draft agreement for this purpose

[1] *China Year Book, 1928*, p. 737–748.

was drawn up and initialed by the British and Chinese delegates, but the final detailed agreement has not yet been signed.[1]

In the International Settlement at Shanghai the Chinese have gained genuine participation in the municipal government. Shanghai is one of the great cities of the world with a total population of some 2,708,642, of whom 49,787 are foreigners. Of its several distinct municipalities, two are foreign, the French concession and the International Settlement. The latter has a population of over 842,226 Chinese and over 29,947 foreigners.[2] The Settlement was originally an area set apart for foreign residence, from which Chinese were excluded; but after they were admitted they came in large numbers, especially during the disturbances of the Taiping Rebellion in the middle of the past century. The government is now vested in a Municipal Council of 12, of whom nine are elected annually by the substantial foreign rate payers who number less than 3,000. The three Chinese members are elected separately by their own nationals. The present Municipal Council is composed of five British, three Chinese, two Americans and two Japanese. It performs very efficiently all the normal duties of the government of a great city except the supervision of courts; it has charge of police, schools, hospitals, streets, water works, parks, lighting and electrical power plants, gas works and a municipal band and orchestra. In its Volunteer Corps, often used for the protection of the Settlement during civil wars, it has a force resembling a local army. The Municipal Council is theoretically subordinate to the local consuls of the foreign powers, who in turn are under the authority of the ministers of their countries in Peking or Nanking and of their home Governments. But in its normal operations the

[1] *China Year Book, 1928*, p. 761, note; p. 915, note. For some years the Chinese have been represented on the Municipal Council of the concession; recently the British offered the Chinese the privilege of choosing half of the Council members. (*Week in China*, June 29, 1929, Vol. XII, p. 520.)

[2] Shanghai, *Municipal Gazette*, quoted in *China Weekly Review*, June 15, 1929

Council acts in large measure independently of both consuls and the diplomatic body.[1]

In the government of the International Settlement the Chinese, until recently, had no share. For some years they urged that they should be given representation on the Council; and their demands were sharpened and intensified in consequence of the May 30 affair.[2] They based their claims upon the fact that they composed about 96% of the population of the Settlement and paid the greater part of the taxes. They objected, also, to alleged encroachments by the Municipal Council upon China's sovereign rights and to discriminations against Chinese, such as the exclusion of Chinese from the public parks. Under these circumstances, the foreign rate payers voted in April, 1926, in favor of granting the Chinese the right of appointing three of their nationals to the Municipal Council which then consisted of nine members.[3] But this offer was for some two years refused by the Chinese who insisted upon at least equal representation with the foreigners. Finally, March 26, 1928, a compromise was effected by which three Chinese were to be elected to the Council, and six additional Chinese appointed on various committees of the Settlement. This arrangement gave the Chinese nine members in the government, the number for which they had been contending, and yet left the Council under foreign control. The Chinese elected their three Council members, April 10, and the agreement was put into effect.[4]

This arrangement is admittedly only a temporary compromise. The Chinese Association in its note accepting this solution definitely stated that it "still considers the number of seats for Chinese on the Council should be determined by the amount of taxes paid into the municipal

[1] Hudson, Manley O., "International Problems at Shanghai," *Foreign Affairs*, October, 1927, Vol. VI, No. 1, p. 75–88; Willoughby, *op. cit.*, Vol. I, Chap. XX; Kotenev, A. M., *Shanghai: Its Municipality and the Chinese*, passim.

[2] For the Chinese demands at that time, see *China Year Book, 1926*, p. 934–936; see also summary of report of Judge Finley Johnson on the causes of the May 30 affair, *ibid.*, p. 946–947.

[3] *China Year Book, 1928*, p. 1226–1228.

[4] *New York Times*, April 11 and 19, 1928.

treasury . . . and regards this arrangement as an interim arrangement only, and considers that an increase of six in the number of seats on the Council itself should be effected in the shortest possible time." The Municipal Council in reply stated that "the proposed arrangement will, in the ordinary course of events, lead to an increase in the number of Chinese members of the Council." The Municipal Council, therefore, has practically promised to give the Chinese more than three Council members in the near future, but does not agree to make the Chinese and the foreign representation equal.[1]

Additional measures were taken by the Municipal Council to meet the wishes of the Chinese. On February 1, 1927, the Mixed Court was handed back, under prescribed conditions, to Chinese control, and termed the Shanghai Provisional Court. On June 1, 1928, the principal parks in the International Settlement were thrown open to Chinese on the same terms as to foreigners.[2]

But these successes naturally do not satisfy the Chinese. They are aiming at the return to Chinese control of the remaining concessions and settlements as well as of all foreign-administered areas. In Shanghai an insistent demand is being made that the Provisional Court shall be placed without conditions under Chinese jurisdiction. In Peiping the claim is being advanced with increasing frequency that the Legation Quarter should be taken from the administration of the diplomatic corps and made a part of the regular Chinese municipality. In January, 1929, the Chinese mayor of Peiping declared that the status of the Legation Quarter must be changed since conditions were different from those of the days of the Boxer protocol, when the powers "forced upon China this and other unequal agreements;" he also petitioned the National Government, it is stated, to open negotiations with foreign powers on this subject. In the following month, a strike of the Chinese police caused renewed dis-

[1] For the text of the notes see *Chinese Social and Political Science Review*, Public Documents Supplement, April, 1928, Vol. XII, p. 42–46.

[2] *New York Times*, April 19, 1928.

cussion of the rendition of the quarter to Chinese jurisdiction.[1]

There are still 16 concessions under foreign administration in nine different cities of China, and in addition the great International Settlement in Shanghai. Before long the Chinese will demand with increasing earnestness that these foreign municipal areas be returned to Chinese control.

Foreigners in China are in general opposed to these nationalistic demands of the Chinese; they believe that the immediate transfer of these districts to unrestricted Chinese control would be both unjust and unwise. It would be unjust since it is the foreigners, they insist, who are responsible for the success of these concessions and settlements and for maintaining honest and efficient administration. It would be unwise since a transfer to Chinese control would mean a lowering of standards in all the departments necessary in a good municipal government. In support of their contention there is sometimes quoted a part of an address delivered by Marshal Sun Chuan-fang before the Chinese General Chamber of Commerce in Shanghai, May 5, 1926:

> Whenever I come to a treaty-port I feel thoroughly humiliated, not only because a treaty-port is a standing reminder of our loss of sovereignty, but also because when we pass from the concessions into Chinese territory we feel that we are crossing into a different world — the former is the upper and the latter is the underworld, for nothing in the Chinese territory — roads, buildings, or public health — can be compared with the concessions. This is the greatest of our national humiliations, much greater in my opinion than the loss of sovereignty.
>
> In recent years the people of China have gradually acquired a national consciousness and with one voice have demanded the rendition of concessions and the abolition of unequal treaties, but "empty-mouthed" demands are useless. If we want to have the concessions abolished we must make the necessary preparations, otherwise even if the powers hand over the concessions to us at once, we shall find ourselves utterly unprepared to receive them.

[1] *New York Times*, January 19, 1929; *Week in China*, February 23, 1929, Vol. XII, p. 152; *Pacific Affairs*, March, 1929, No. 3, p. 131.

One of the objects of establishing the Directorate of the Port of Shanghai and Woosung is to try to accomplish some real results to show our foreign friends and to start our general preparation for the eventual return of the concessions. [1]

Foreigners also point to the administration of the concessions which have been turned over to the Chinese as further evidence of the correctness of their point of view. Each of these former foreign-controlled areas was changed into a "Special Administrative District" with a form of government designed to continue the participation of the foreigners and to exclude local Chinese political control. Each "district" was to be under a director appointed by the Chinese National Government, who was to be advised by a council, part foreign and part Chinese. In the agreement for the Government of the former British concession at Hankow, it was definitely stipulated that the Council should consist of the Chinese director as chairman, and of six additional members, three Chinese and three British. There was considerable complaint from both foreign diplomats and traders regarding this new form of administration.

The situation in the former British concession at Hankow, known as "Special Administrative District No. 3," was particularly unfortunate the first year after its transfer to Chinese control, probably due in large part to the civil war and the disturbed political conditions. There were frequent changes in the Chinese director and serious financial difficulties. But although conditions of administration during the past year have improved, they appear to be far from satisfactory. As recently as the early months of 1929 it was charged that the Chinese military officers and other government officials were frequently interfering with the director of the district, and issuing orders to him, contrary to the Chen-O'Malley agreement. After frequent complaints by the British minister, the Chinese minister of foreign affairs at Nanking promised to issue instruction that there must be no outside inter-

[1] *China Year Book, 1926*, p. 1012.

ference with the administration of the former British concession.[1]

The recent incorporation into the regular Chinese municipality of Hankow of the Special Administrative Districts which were formerly German and Russian concessions has caused considerable apprehension among the foreign groups. In the British House of Commons, Sir Austen Chamberlain said, February 20, 1929, "The question of the cancellation of the constitutions of these districts is being taken up with the National Government by His Majesty's minister, who is stating the objections to the retrograde step taken by the Wuhan authorities and urging reconsideration thereof, with the idea of preserving some form of foreign representation in the administration." [2]

In support of the Chinese, however, it should be stated that their administration of the former Russian section of Harbin, which has been taken over by the local Chinese authorities, seems to be a decided improvement over the previous Russian régime. This was the general view of the foreigners in Harbin as stated to the writer in December, 1927.

Upon the whole it appears to be the judgment of the fairminded foreigners in China that the new Chinese régime in the former concessions has not maintained the standard of government established under the old administrations. But it may be, also, as an American scholar has recently stated, "that the record of Chinese administration, while far from perfect, is better than many foreigners who have lived in China would have anticipated."[3]

The official attitude of the British Government, notwithstanding its apparent disappointment over some of the developments in its former concessions, seems to be

[1] " Great Britain and the Pacific," *Pacific Affairs*, May, 1929, Vol. V, p. 254–256.

[2] Great Britain, *Parliamentary Debates*, Vol. 225, col. 1097.

[3] Harold S. Quigley, "Foreign Concessions in Chinese Hands," *Foreign Affairs*, October, 1928, Vol. VII, p. 150–151. For recent British opinion, see "Great Britain and the Pacific," *Pacific Affairs*, May, 1929, Vol. V, p. 250–281. For a favorable view of the Chinese administration of the former concessions in Hankow, see Chapman, H. O., *The Chinese Revolution*, 1926–1927, p. 151–152.

unchanged from the early part of 1927, when in a note to the Hankow Government, January 27, it stated:

> His Majesty's Government are prepared to discuss and enter into arrangements, according to the particular circumstances at each port concerned, for the modification of the municipal administrations of British concessions so as to bring them into line with the administrations of the special Chinese administrations set up in former concessions at Hankow, or for their amalgamation with neighboring concessions, or former concessions now under Chinese control, or for the transfer of police control of the concession areas to the Chinese authorities.[1]

The United States has no concessions in China, but maintains that it has an interest in the International Settlement. Secretary of State Kellogg in a note of February 7, 1927, after proposing that the International Settlement should "be excluded from the area of armed conflict so that American citizens and other foreigners may receive adequate protection," added, "the American Government will be ready for its part to become a party to friendly and orderly negotiations properly instituted and conducted regarding the future status of the Settlement."[2]

Other Unequal Privileges

In addition to the rights which the foreigners have enjoyed in China in regard to the tariff, extraterritoriality, and concessions and settlements, they still have other exceptional privileges which the Chinese are resolved to terminate. These relate to leased territories, foreign military and naval forces within China, inland navigation, missionary status, railroad concessions and foreign financial supervision.

Leaseholds

At the Washington Conference, Dr. V. K. Wellington Koo said "the Chinese delegation believed that the time had come for the interested powers to relinquish their

[1] Toynbee, *op. cit.*, 1926, p. 495; *China Year Book, 1928*, p. 761.

[2] Hornbeck, *op. cit.*, p. 555.

control over the territories leased to them."[1] China has already obtained a measure of success in its effort to regain these long-term leaseholds. The territory of Kiao-chou in the province of Shantung which was leased to Germany for 99 years in 1898 and later transferred to Japan at the Paris Conference in 1919, was formally returned to China by Japan in accordance with the terms of a Sino-Japanese agreement signed in connection with the Washington Conference, 1922.[2]

Weihaiwei, situated in the northern part of Shantung, was leased to Great Britain in 1898 "for so long a period as Port Arthur shall remain in the occupation of Russia." At the Washington Conference, Arthur J. Balfour on behalf of the British Empire promised that this leasehold would be returned to China under reasonable conditions.[3] No final agreement, however, for this transfer has as yet been reached although it is stated that negotiations for this purpose have recently been resumed.

The French leasehold, the area around the Bay of Kuang-chou Wan, was granted by China in 1898 for 99 years. At the Washington Conference, René Viviani declared that France would restore its leased territory if all the other powers should do the same. He said:

> The Government of the republic is ready to join in the collective restitution of territories leased to various powers in China, it being understood that this principle being once admitted and all private rights being safe-guarded, the conditions and time limits of the restitution shall be determined by agreement between the Chinese Government and each of the Governments concerned.[4]

Great Britain showed no inclination at the Washington Conference to return its remaining leased territory, Kow-

[1] *Conference on the Limitation of Armament*, p. 1060.

[2] MacMurray, *op. cit.*, Vol. I, p. 112; Vol. II, p. 1488; *Conference on the Limitation of Armament*, p. 200; League of Nations, *Treaty Series*, Vol. X, p. 310; XXII, p. 257; XXVII, p. 426.

[3] MacMurray, *op. cit.*, Vol. I, p. 152; *Conference on the Limitation of Armament*, p. 226.

[4] MacMurray, *op. cit.*, Vol. I, p. 128; *Conference on the Limitation of Armament*, p. 1062.

loon Extension, opposite Hong Kong, obtained in 1898 for 99 years. Nor did Japan show an inclination to return the Liaotung Peninsula which was leased originally to Russia in 1898 for 25 years but which was transferred after the Russo-Japanese War to Japan under the conditions of the original lease. In 1915 Japan obtained by a treaty with China, the validity of which China denies, an extension of this lease to 99 years.[1]

Of the former leased territories, in summary, one has already been given back to China; one appears about to be returned; another is to be retroceded when the other foreign leaseholding states shall take the same action; but the remaining two are now held by foreign powers which appear to hold to the terms of the leases as written.[2]

Foreign Troops and Warships in China

The Chinese resent the presence in China of military forces from other countries, and wish to cancel those treaty provisions which are held to authorize them. The treaty-powers, however, point out that they are empowered by treaties and conventions to keep such forces in Peking and from Peking to the sea, and to patrol the rivers of China by their gunboats; and Japan maintains that it has a right to use railway guards on its South Manchuria system.

The Boxer protocol of 1901 clearly and definitely authorized the signatory foreign powers to fortify the Legation Quarter in Peking, to guard it by soldiers and to maintain additional troops at designated points from Peking to the sea. These rights the powers, including the United States, have exercised; the number of guards and troops has varied according to the exigencies of the military and political situation in North China. The validity and the meaning of the Boxer protocol are not denied by the Chinese, but they generally regard it as one of the unequal

[1] MacMurray, *op. cit.*, Vol. I, p. 127, 130, 523, 549; Vol. II, p. 1220.

[2] Hong Kong and the part of Kowloon immediately opposite were ceded to Great Britain in full sovereignty in 1842 and 1860 respectively. The more ardent nationalists demand that these also shall be returned to China.

treaties which is no longer adapted to present-day conditions.[1]

The right to send gunboats into China's inland waters is based upon Art. 52 of the Sino-British treaty of Tienstin, 1858, which reads:

> British ships of war, coming for no hostile purpose, or being engaged in the pursuit of pirates, shall be at liberty to visit all ports within the dominions of the Emperor of China, and shall receive every facility for the purchase of provisions, procuring water, and, if the occasion require, for the making of repairs. The commanders of such ships shall hold intercourse with the Chinese authorities on terms of equality and courtesy.[2]

Similar rights were granted to certain other states, and the remaining treaty-powers claimed the same privileges on the basis of the most-favored-nation clause. The Chinese deny that this British treaty justifies the present naval practise of sending gunboats in time of peace to river ports in China which are not treaty-ports. Some American authorities doubt whether the foreign powers are justified in the interpretation they give to these treaty provisions;[3] but the American Department of State expressed the opinion in 1903 that "our gunboats may visit the inland ports of China, including those which are not treaty-ports."[4]

The treaty basis for the maintenance of railroad guards will be considered in the chapter on Manchuria.

Inland Navigation

The principal inland waterways in China have been opened to the trade of foreign ships by treaties beginning

[1] For the Boxer protocol, see MacMurray, *op. cit.*, Vol. I, p. 278. Dr. C. T. Wang, Minister for Foreign Affairs, said in an interview, January 10, 1929: "The National Government considers the time and events that necessitated the protocol of 1901 as gone, therefore also the *raison d'être* of the protocol. Furthermore, it declares in protest that the stationing of troops in China is a serious violation of international law and it expects the powers concerned to afford immediate correction." *Japan Weekly Chronicle*, January 24, 1929, p. 92.

[2] *China. Maritime Customs, Treaties, Conventions, etc.*, Vol. I, p. 419.

[3] Willoughby, *op. cit.*, Vol. II, p. 854.

[4] United States, *Foreign Relations*, 1903, p. 85–90.

with the Sino-British treaty of Tienstin, 1858. In most of the advanced countries of the world, however, the rights of inland navigation are reserved for their own nationals or possibly granted to foreigners under special conditions. This right of inland navigation by foreigners is regarded by Chinese as another special privilege due to the unequal treaties.[1]

Missionaries

The exceptional privileges enjoyed by missionaries in China, the right to reside, to own land and to erect buildings for missionary purposes in the interior of the country, and to be protected in their missionary work are based upon clauses in the unequal treaties. So also is the right of native Chinese to embrace the Christian religion. During the past few years many missionaries, especially the American Protestant missionary societies, have advocated the elimination of these "toleration clauses" from the treaties in order that the rights of Christian missions in China should depend not upon treaty stipulation but upon privileges freely granted by the Chinese themselves.[2]

Financial Supervision and Control

By international agreements foreigners not only supervise the Chinese Maritime Customs Service but also the Chinese Post Office, and, in part, the Salt Administration. Foreign Governments control railroad systems in China, and the leading foreign banking groups with the support of their Governments have agreed through the Consortium to act jointly in regard to loans desired by the Chinese central or provincial Governments.

As to the postal department, the Chinese Government stated in its agreement of 1898 with France:

> When the Chinese Government organizes a definite postal service and places a high functionary at its head, it proposes to call for the help of foreign officers, and declares itself willing to take

[1] Willoughby, *op. cit.*, Vol. II, p. 846–953.

[2] Hornbeck, *op. cit.*, p. 456–458; Willoughby, *op. cit.*, Vol. II, p. 699–725.

account of the recommendations of the French Government in respect to the selection of the staff.[1]

At the Washington Conference the powers agreed to abolish their foreign post offices in China under certain conditions, one of which read:

> That an assurance is given by the Chinese Government that they contemplate no change in the present postal administration so far as the status of the foreign co-director general is concerned.

To this resolution the Chinese delegation agreed.[2] In the early part of 1929, a Norwegian was appointed co-director general of posts to replace a Frenchman.[3]

In the reorganization loan agreement of 1913 between the Chinese Government and British, French, German, Japanese and Russian banking groups, it was provided that a foreigner should be appointed associate chief inspector with extensive powers of the Chinese Central Salt Administration; and that the salt taxes should be deposited in the banks of these foreign financial institutions.[4] A foreigner still holds the post of assistant chief inspector, but there has recently been criticism by foreigners because the salt revenue is no longer deposited in foreign banks in accordance with the terms of the original loan agreement.[5]

Foreign powers or their nationals have obtained either ownership or exceptional rights of control over various railroads in China, notably the Chinese Eastern and the South Manchuria Railways.

It is their fear of further control or supervision by foreigners which has caused the apprehension felt by Chinese regarding the agreement made by the Four Power Consortium in 1920, with the approval of their respective

[1] MacMurray, *op. cit.*, Vol. I, p. 124.
[2] *Conference on the Limitation of Armament*, p. 1646.
[3] *Week in China*, January 26, 1929, Vol. XII, p. 84.
[4] MacMurray, *op. cit.*, Vol. II, p. 1026–1027.
[5] *Week in China*, November 24, 1928, Vol. XII, p. 3–5, 16–17.

Governments, by American, British, French and Japanese banking groups. This is sometimes called the second Consortium to distinguish it from the first, or Six Power Consortium of 1912, which was organized by banking interests of France, Germany, Great Britain, Japan, Russia and the United States, in order to participate equally in future administrative loans to the Chinese Government. President Taft regarded the Consortium as a desirable agency for maintaining the Open Door in China, but President Wilson, shortly after assuming office in 1913, declined to request the American banking group to continue in the Consortium, and criticized the terms of its proposed loan to China. As a result the American group withdrew.

During the World War the Consortium no longer functioned, but after the peace of Versailles, a second Consortium was organized at the suggestion of the American Government. In order to abolish spheres of interest and the struggle for concessions, the Consortium groups agreed that they would share all Chinese governmental loans, administrative, industrial or political, offered to any one of them. Although the American Secretary of State, Charles E. Hughes, described the Consortium as a "cooperative effort for the assistance of China," the Chinese have not availed themselves of its services, fearing that it would bring about an increased control by foreigners of the operations of the Chinese Government.[1]

The Recognition of the National Government

The New Capital at Nanking

For some years the division of China between contending Governments made it impossible for foreign states to negotiate new treaties which would be recognized throughout the country as a whole. With the victory of the

[1] *China. Maritime Customs. Treaties, Conventions, etc.*, Vol. III, p. 3822; Willoughby, *op. cit.*, Vol. II, Chap. XLI; Carnegie Endowment, *The Consortium: The Official Text of the Four Power Agreement for a Loan to China and Relevant Documents.*

Nationalist armies in the spring of 1928, however, not only could such negotiation take place, but the formal recognition by the powers of the Government at Nanking as the *de jure* Government of China was also a natural consequence.

A preliminary step to such recognition, however, seemed to be a settlement of the unfortunate Nanking affair of March 24, 1927. Some of the Nationalist soldiers who captured Nanking that morning made an attack upon the foreigners, looted their homes, killed six and wounded or abused many others. The five powers concerned, France, Great Britain, Italy, Japan and the United States, at once made demands for satisfaction upon the Nationalist Government, then located at Hankow, dealing with it as the local *de facto* Government.[1] When the Nationalist authorities failed to meet these demands satisfactorily, certain Governments proposed that the powers concerned should jointly enforce military measures of a coercive character, but the United States was unwilling to participate in these and the plan was abandoned.[2]

A year later the United States took the lead in making a definite settlement of the Nanking incident by an exchange of notes with the minister of foreign affairs at Nanking, April 2, 1928. The Nationalist Government expressed profound regret for the indignities, losses and injuries, and added, "although it has been found, after investigation of the incident, that it was entirely instigated by the communists prior to the establishment of the Nationalist Government at Nanking, the Nationalist Government nevertheless accepts the responsibility therefor." It stated that "the troops of the particular division which took part in the unfortunate incident, at the instigation of the communists, have been disbanded. The Nationalist Government have in addition taken effective steps for the punishment of the soldiers and other persons implicated."

[1] For these demands and the reply of the Nationalist minister of foreign affairs, see *China Year Book, 1928*, p. 730–735.

[2] Hornbeck, Stanley K., "China and American Foreign Policy," *Annals of the American Academy of Political and Social Science*, July, 1928, p. 31.

It was agreed that a Sino-American joint commission should be appointed to verify the injuries and damages suffered and to determine the amount of compensation due in each case. The commission was shortly appointed, and the Chinese Government made an initial deposit of $100,000 silver on account of reparations.[1] It should be added that certain American missionary societies refused to accept indemnities for their losses sustained in the Nanking incident, and that the National Government, through its minister for foreign affairs, expressed high appreciation of this action.[2]

The other powers concerned in the Nanking affair, France, Great Britain, Italy and Japan, followed the example of the United States in making settlements of their claims, by exchanges of notes couched in much the same language as that employed in the Sino-American documents.[3] The Sino-American and Sino-British notes also refer to the naval barrage of March 24; no French, Italian or Japanese vessels participated in it.

The settlement of the Nanking incident was naturally followed by the formal recognition of the National Government as the *de jure* Government of China. This recognition was first granted by the United States by the act of signing the tariff treaty, July 25, 1928. According to the general practice of diplomacy, the signature of a formal treaty with a new government constitutes recognition of it. But much depends upon the intention of the recognizing state, and to remove any possible misunderstanding on this point, the American Department of State, September 27, declared that the signature of the tariff treaty

[1] For text, see *Chinese Social and Political Science Review*, Public Documents Supplement, April, 1928, Vol. XII, p. 38–42; see also *American Journal of International Law*, January, 1929, Vol. XXIII, p. 120–121.

[2] *China Weekly Review*, January 26, 1929, p. 366.

[3] For the British notes, dated August 9, 1928, see *British Command Papers, China*, No. 1, 1928; papers relating to the settlement of the Nanking incident of March 24, 1927; also, *Chinese Social and Political Science Review*, Public Documents Supplement, October, 1928, Vol. XII, p. 67. For the text of the Sino-French notes of October 1 and 9, 1928, and the Sino-Italian notes of about the same dates, see *North China Herald*, October 20, 1928. For the Sino-Japanese notes, dated May 2, 1929, see *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 62.

had marked complete recognition of the National Government by the United States.[1] Other powers followed. The British minister, December 19, signed the Sino-British tariff treaty; and the following day, after this act of recognition, formally presented his credentials as minister to General Chiang Kai-shek, the head of the National Government. During the ceremony the British gunboat in the river at Nanking fired a salute of 21 guns.[2] By the close of the year 1928 all the treaty powers except Japan had granted recognition to the National Government by the signature of the several tariff treaties. During the present year, Japan also recognized the Nanking Government as the *de jure* Government of China. Japanese naval vessels at Nanking fired a salute in honor of the flag of the National Government, April 29; and, June 3, the Japanese minister formally presented his credentials to General Chiang Kai-shek at Nanking.[3]

Since Nanking has been made the capital of China, the powers must eventually consider whether they will transfer their legations from Peking to that city.[4] Already in April the minister of Cuba announced that he had been instructed by his home government to move the Cuban legation to Shanghai; and the Turkish minister stated that his country would establish a legation in Nanking itself, the first state to take this action.[5] To make a change of the legations would mean for the treaty-powers

[1] *New York Times*, September 28, 1928.

[2] *Week in China*, December 22, 1928, Vol. XII, p. 13–14.

[3] *Week in China*, June 1 and 8, 1929, Vol. XII, p. 452–453; p. 470–471.

[4] At the second anniversary of the establishment of the national capital at Nanking, which was celebrated April 18, 1929, Honorable Hu Han-min, speaking for the Government, said: "The change of capital is absolutely necessary in the wake of revolution. Petrograd was replaced by Moscow as a result of the Russian Revolution. The Turks abandoned their ancient capital of Constantinople as a signal to escape the degenerating influence of the feudalistic ports and the imperialistic domination of the powers, and instead chose the dilapidated Angora as their new national capital. Likewise, we removed ours from Peking to Nanking to be free from the atmosphere of monarchism, mandarinism and foreign imperialism which the old capital savored of. This act followed closely the late leader's wish." (*Chinese Affairs*, 1929, No. 34–35.)

[5] *Week in China*, April 13, 1929, Vol. XII, p. 260–261; *Japan Weekly Chronicle*, May 9, 1929, p. 534.

leaving the commodious, comfortable, treaty-protected legation quarter of Peiping for the overcrowded city of Nanking, where new legation buildings would have to be erected, and where the present exceptional diplomatic protection in Peiping would have to be abandoned. Yet if the National Government continues to develop in stability and strength, it will soon seem anomalous for the foreign ministers to reside in Peiping, when the officials with whom they must carry on diplomatic business have their offices over 500 miles distant.

Another recent action of several of the treaty-powers, which showed the international confidence in the growing stability of China and manifested the desire of the powers to support the National Government, was the cancellation of the arms embargo agreement of 1919. This agreement, signed by France, Great Britain, Japan, the United States and other treaty powers, bound the signatory states to prevent their citizens from exporting munitions to China "until the establishment of a Government whose authority is recognized throughout the whole country." On April 26, 1929, the National Government was informed that this agreement was canceled by the signatory powers. So far as the United States is concerned, our Government will henceforth permit the export of arms from this country to China upon the request of the National Government, but not otherwise.[1]

[1] Department of State, Press Release, May 1, 1929; *New York Times*, May 1, 1929.

II. CHINA'S RELATIONS WITH INDIVIDUAL POWERS

The United States

In addition to the issues between China and the powers as a group, largely concerning the unequal treaties in their various phases, certain of these powers have Chinese problems of their own. Each of the leading foreign states too has interests and policies which differ somewhat from those of the others.

The policies of the United States and the attitude of the American people toward China have been distinctive and in the main consistent throughout the past century.[1] The official policies have aimed to maintain (1) the Open Door and (2) the territorial and administrative integrity of China. The United States, moreover, has always opposed seizures of territory in China and the demarkation of spheres of interest by the powers.

These two related policies were developed in the early days of American contact with the Far East. Shortly after the independence of the United States, when ships from the Atlantic coast were sailing to the Orient, the Government began to insist upon the right of the most favored nation, which is the same in principle as that of the Open Door. Later when it came to be realized that equal opportunity in trade and commerce required a united China, the preservation of the integrity of that country came to be recognized as a secondary aim of the United States. These two distinctive policies, which had actually been in effect for some decades, were first definitely formulated by Secretary John Hay in 1899 and 1900. For some

[1] The best extended account of American policy to 1900 is to be found in Dennett, Tyler, *Americans in Eastern Asia*. An excellent summary of the present policy is given by Hornbeck, S. K., "China and American Foreign Policy," *Annals of the American Academy of Social and Political Science*, July, 1928, Vol. CXXXVIII, p. 26–37.

years they were a strong and helpful factor in China's international relations. Finally, at the Washington Conference, 1921–1922, they were carefully defined and embodied in a general multilateral treaty signed by the nine Pacific powers.[1]

These policies have aimed not only to further the commercial interests of the United States but also to establish principles which would help to maintain peace and security in China and the entire Far East. In the early days the China trade was an important part of American foreign commerce. At present while it is not so large proportionately, American trade with China, which amounted to over $322,000,000 in 1928 (including Hong Kong and Kwantung), is surpassed in value only by that of Japan and Great Britain (including Hong Kong). It furnishes about 20% of China's imports and 25% of its exports.[2]

The attitude of the American people toward China is traditionally one of sympathy and friendship. One of the causes for this feeling is undoubtedly to be found in the many educational and missionary activities carried on by Americans in that country. In fact, American investments in China of a philanthropic, educational and missionary character are estimated to exceed by some $10,000,000 (gold) the investments for business purposes.[3] This unusual situation was pointed out by the Chinese minister, Dr. Sze, in an address at the Institute of Politics at Williamstown in 1923, when he said that Americans had put into China more money as gifts than American business had ever taken out of China as profits. The particularly friendly feeling of America is recognized as an important factor both by Chinese and by foreigners. It

[1] *Conference on the Limitation of Armament*, p. 1621.

[2] American trade with China is much greater than appears from the reports of the Chinese Maritime Customs. See Arnold, Julean (American commercial attaché: Peiping), *China: A Commercial and Industrial Handbook* (Department of Commerce, 1926), p 42–44; *Some Bigger Issues in China's Problems*, 1928, chart 2.

[3] The estimate of $78,000,000 (gold) for American investments in China for hospitals, schools and missions, and of $68,000,000 for business purposes, was made by members of the Round Table on China at the Institute of Politics, 1927. Investments of the latter class are placed at $69,300,000 (gold) by Dean Frederic E. Lee in his *Currency, Banking and Finance in China*, Department of Commerce, 1926, p. 123.

is commonly stated by those in the Far East who wish the powers to pursue a strong, realistic policy toward China — foreigners and American business men in general in the treaty-ports — that the greatest obstacle to such a policy is the "sentimental attitude" of the American public. A definite expression of this feeling was shown in the Porter resolution, which passed the House of Representatives, February 21, 1927, by a vote of 262 to 43.[1] It requested the President to negotiate new treaties with China regarding extraterritoriality, customs dues, and

> such other treaty provisions as may be found to be unequal or nonreciprocal in character, to the end that henceforth the treaty relations between the two countries shall be upon an equitable and reciprocal basis and will be such as will in no way offend the sovereign dignity of either of the parties or place obstacles in the way of realization by either of them of their several national aspirations or the maintenance by them of their several legitimate domestic policies.

Since extraterritoriality is clearly "nonreciprocal in character" and, in the view of the Chinese, does "offend the sovereign dignity" of their country, it would appear that the Congressmen who voted for the resolution, if they read it with any care, declared for the early abolition of American extraterritorial rights in China. In any case — and probably a more accurate interpretation — they wished to put themselves on record in favor of giving China "a square deal."

While the leading American policies toward China have remained substantially unchanged, it has been an issue for nearly a century whether they should be pursued by independent action or by cooperation with other states in the Far East.[2] In many instances cooperation is impossible, for it must be limited, naturally, to cases where there exists or can be achieved a substantial unanimity of

[1] *Congressional Record*, 69th Cong., 2d Sess., Vol. 68, p. 4347; Hornbeck, *op. cit.*, p. 561.

[2] For a statement of the problem of cooperation, see Hornbeck, *Annals*, *op. cit.* For a history of cooperation to 1900, see Dennett, *op. cit.*

opinion among the states concerned in regard to a proposed action. No genuine and complete cooperation could have been possible between the United States and the European powers during 1896–1898, when the latter were seizing sections of Chinese territory and the United States was strongly opposed to what they were doing. But there is a wide field in which apparently a course either of cooperation or of independent action might properly be taken. Each method has its advocates. Those who favor cooperation wherever possible point to the Washington Conference, whose success depended upon joint action with other powers; those who prefer an independent course, refer to the remission of the Boxer indemnity in 1908, which obviously could not have been brought about at that time by means of a conference.

During the past few years the United States has cooperated with other powers in the Washington Conference; the Peking tariff conference; the demand for redress for the Nanking incident of March 24, 1927; the ultimatum delivered to both Chinese parties, in March, 1926, insisting upon the freedom of passage from the sea to Peking; the defense measures for the protection of Americans and other foreigners in certain of the treaty-ports; and the recent notes declining to renounce immediately the extraterritorial rights in China. On the other hand, the American Government has acted independently in its refusal to use force to back up the Nanking demands of April, 1927; its settlement of the Nanking incident, April 2, 1928; its negotiation of the tariff treaty of July 25, 1928; and its consequent recognition of the National Government.

At present the advocates of independent action in general favor a liberal policy toward China, while those who prefer cooperation wish to proceed slowly in granting China's demands. When the writer had the pleasure of talking with General Chiang Kai-shek, in November, 1927, and asked him what statement, if any, he would like to have made public in America, he replied at once, "the United States should negotiate directly with China and not in

cooperation with either Great Britain or Japan." A few days later when the same query was addressed to Baron Tanaka in Tokyo, he said, "the greatest need is that there should be the closest possible cooperation between America and Japan in regard to China." The American Government appears to deal with each case as it arises, and either to cooperate with the other Far Eastern powers or to follow independent action as seems best calculated to achieve the basic policies of the United States in Eastern Asia.

The present situation is radically different from that of the days when Secretary John Hay wrote his notes on the Open Door and the integrity of China. Then the European powers were violating both of these American policies. Now there is little danger, with the single exception of apparent Soviet designs on Mongolia, of territorial aggressions by outside powers. The outstanding issue at present in China's foreign affairs is its demand for the abolition of all unequal treaties and privileges, and this has a bearing upon the American policy of supporting the administrative integrity of China. The United States has shown that it is not only willing, but anxious, to renounce all exceptional rights in China as soon as this may be done consistently with the maintenance of what it regards as adequate protection of American life and property. In the note from the Secretary of State to the Chinese minister for foreign affairs, delivered July 24, 1928, he said:

> The good will of the United States toward China is proverbial, and the American Government and people welcome every advance made by the Chinese in the direction of unity, peace and progress. We do not believe in interference in their internal affairs. We ask of them only that which we look for from every nation with which we maintain friendly intercourse — specifically, proper and adequate protection of American citizens, their property and their lawful rights, and, in general, treatment in no way discriminatory as compared with the treatment accorded to the interests or nationals of any other country.[1]

[1] Department of State, Press Release, July 26, 1928: *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1928, Vol. XII, p. 60–61.

Great Britain

British policy toward China has differed from that of the United States in several respects, notably in that Great Britain, however much it may have favored the Open Door and the integrity of China, has actually participated in the seizure of Chinese territory and the demarkation of foreign spheres. Its economic interests and its trade also have been much greater than those of the United States. The value of its investments in China, not including Hong Kong, which is British territory, has been variously estimated, but must approximate $1,000,000,000 (gold). The China trade of the British Empire as a whole, including India and the Dominions, is greater than that of any other country, while the trade of Great Britain and Hong Kong together, although somewhat less than that of Japan, is larger than the direct trade between China and the United States.[1] In defense of these interests and other rights, as it viewed them, Great Britain has fought two wars with China, 1840–1842 and 1856–1860. Its economic stake in China has been great, and it has been willing to maintain it by force.

During the past few years there have been two important developments in Sino-British relations: the serious anti-British boycott carried on by the Chinese from 1925 to 1927 and the change in British policy marked by the memorandum of December 18, 1926. The boycott and the violent outburst against the British which swept over China for some months were occasioned first of all by the May 30 affair, 1925, in the International Settlement at Shanghai, when some of the municipal police, under the command of British officers, fired into a crowd of Chinese, who were threatening one of the police stations, and killed and wounded a considerable number. The indignation aroused by this massacre, as the Chinese regarded it, was stimulated by somewhat similar incidents in other cities,

[1] For trade statistics for 1927, see Great Britain, Department of Overseas Trade, *The Commercial, Industrial and Economic Situation in China*, to September 1, 1928, p. 63; *China Year Book, 1928*, p. 131–136.

especially the Shameen affair in Canton, June 23, 1925, and was strengthened by more fundamental causes, particularly by the long-held belief of the Chinese that the British formed the foremost imperialistic element in China,[1] and by the advice of the Soviet agents that it would be good tactics to concentrate the rising anti-foreign feeling of the country against Great Britain, the strongest of the foreign powers.[2] The anti-British boycott which resulted was carried out in all parts of China, but was enforced most effectively by Canton against the British city of Hong Kong. It was accompanied by a strike of the Chinese workers in Hong Kong, which led to the exodus of some 200,000 Chinese from that city into neighboring Chinese territory. The boycott, which lasted for 16 months from June, 1925, to October 10, 1926, caused great losses to British merchants, traders and shippers.[3]

It may have been the bitter experiences of this year and a half which led Great Britain to reconsider, and then radically to change, its policy toward China. Its new program which was outlined in a memorandum delivered in December, 1926, to the representatives of the Washington treaty-powers at Peking, and made more specific in the official proposals to the Chinese authorities January 27, 1927, was marked by the spirit of extreme conciliation.[4]

[1] This point of view was expressed by Mr. Eugene Chen, foreign minister of the Hankow Government, in a declaration of January 23, 1927, which said in part:

"In a very real sense, therefore, it is historically true to state that the British, having defeated China in the opium wars, deprived her of her independence. . . . A nation that is not dying can never be at peace with its conqueror. It will strike at a selected moment. The selected moment of Chinese Nationalism came when British-controlled rifles were ordered to 'shoot to kill' Chinese students on Chinese soil on May 30, 1925, at Shanghai; and the movement of liberation found an instrument of power when, following the further killing of Chinese students and others by foreign machine-guns on June 23 off the Shameen in Canton, the economic weapon was forged by Chinese Nationalism in the south." (*China Year Book, 1928*, p. 762.)

[2] See documents found in the raid on the office of the Soviet military attaché, Peking, April 6, 1927, *China Year Book, 1928*, p. 792–823, especially the instructions to the Soviet military attaché, p. 800.

[3] For a good account of this period, see Toynbee, *op. cit.*, 1925, p. 386–388; *ibid.*, 1926, p. 286–291; for a more detailed account, see *China Year Book, 1926*, Chap. XXVII; *China Year Book, 1928*, Chap. XXII.

[4] *China Year Book, 1928*, p. 756–761; see also statement of British policy in China, February 8, 1927, circulated to Member states of the League of Nations, League of Nations, *Official Journal*, Vol. VIII, p. 293; Hornbeck, *op. cit.*, p. 556.

The British Government proposed a number of definite concessions to China regarding the tariff, extraterritoriality and the foreign-administered areas in the treaty-ports; it termed its program "this new policy," and stated that the powers "should abandon the idea that the economic and political development of China can only be secured under foreign tutelage. . . . They should expressly disclaim any intention of forcing foreign control upon an unwilling China." [1] This new attitude has been maintained by the British Government notwithstanding many provocations, as the British have regarded them, and in spite of the opposition of their own "treaty-port" element in China, and to-day has the support of all three parties in the British Parliament. The new policy did not at first appreciably affect the attitude of the Chinese, due both to the intensity of the emotions which had been aroused and to the large military forces which were sent to Shanghai about this time for the protection of the International Settlement. But it has gradually convinced the majority of the Chinese of the genuineness of the British, and the latter have already regained much of the ground lost during the turbulent years from 1925 to 1927.

In addition to the problem of extraterritoriality which Great Britain shares with the other treaty powers its immediate issues with China relate principally to the rendition of Weihaiwei and the numerous British concessions and settlements.

Japan

Japan doubtless is more greatly interested in China than any other power due to its geographical situation, its heavy investments and its dominance in China's foreign trade. As it has been well expressed by Mr. Y. Tsurumi, a leading publicist in Japan, now a member of the Imperial Diet, "Japan's vital issue in foreign affairs is China." [2] Japanese capital, it has been estimated, has been invested in

[1] *China Year Book, 1928*, p. 756–761; see also statement of British policy in China, February 8, 1927, circulated to Member states of the League of Nations, League of Nations, *Official Journal*, Vol. VIII, p. 293; Hornbeck, *op. cit.*, p. 556.

[2] "Difficulties and Hopes of Japan," *Foreign Affairs*, January, 1925, p. 253–265.

China to the approximate amount of over $1,000,000,000 (gold). Japan's trade with China is much greater than that of any other state, even than the combined trade of Great Britain and Hong Kong.[1] And the proportion which this China trade bears to Japan's total world trade is much larger than in the case of any other country.

The underlying policy of Japan at present appears to be to develop a close economic entente with China as a whole, in order to obtain an assured supply of raw materials and a growing market for its manufactured goods, and to protect its special interests in Manchuria. Count Uchida, when minister for foreign affairs, stated in the Diet, "that with a large population in a small territory, Japan could only insure her existence by cooperating with China." [2]

But the methods of attempting to realize these aims have varied from time to time. In the period up to the Washington Conference, during which Japan appeared in part to wish to imitate "the policies of western powers on the Asiatic continent, namely, the extension of the sphere of influence and special privileges," [3] the relations with China were characterized largely by force, or the threat of force. During this period there occurred three wars: with China, 1894–1895, over Korea; with Russia, 1904–1905, over Manchuria and Korea; and with Germany, 1914–1919, actually over Shantung. In this period, too, came the Twenty-One Demands, which were presented by the Japanese Government in 1915 to the President of China. They aimed to obtain for Japan special privileges of various kinds in China, particularly in the region of Manchuria. Although the most objectionable, known as Group Five, were temporarily withdrawn, most of the others were granted by China under pressure of a Japanese ultimatum containing a threat to use military force. At present the leading Japanese appear to regard these demands as unfortunate.

[1] But not greater than that of the British Empire. *China Year Book, 1928*, p. 131–136.

[2] *Japan Weekly Chronicle*, February 1, 1923.

[3] Tsurumi, Y., "Difficulties and Hopes of Japan," *Foreign Affairs*, January, 1925, p. 262.

A new policy, however, developed from about the time of the Washington Conference and continued until the spring of 1927. This was popularly known as "the friendship policy," and was associated particularly with the name of Baron Shidehara, minister for foreign affairs during the latter part of this period. Evidence of this new attitude toward China was seen in Japan's withdrawal of her troops from Shantung and Hankow; the closing of her post offices throughout China; the remission of her share of the Boxer indemnity, which is to be used as a special fund for Chinese educational and cultural work; and her reluctance to use force to support her position in China.

But a different policy was adopted when Baron Tanaka, the head of the opposition party, the Seiyukai, came into office in April, 1927. This was known as a "positive policy," and appeared to be revealed in the sending of two military expeditions to Tsinan, Shantung, in the summers of 1927 and 1928, and in a more vigorous assertion of Japan's special rights in Manchuria. This policy resulted in serious friction with China, a damaging anti-Japanese boycott, and public criticism by the leading diplomats of the Minseito party in Japan, notably by Baron Shidehara and former Ambassador Hanihara.[1]

Another change in administration took place in July, 1929, when the Minseito party came into power with Baron Shidehara once again minister for foreign affairs. The principal feature of the new cabinet's statement of aims is its insistence that Japan's policy toward China shall be revised and placed "on the basis of good will and neighborliness;" it declares that the earlier policy of cooperation with China in the abolition or revision of the unequal treaties will be resumed, and that Japan desires "the coexistence and common prosperity of the two countries." The manifesto adds:

Our Government not only rejects a policy of aggression in any part of China but is prepared to render friendly aid to China for

[1] For Mr. Hanihara's article, see *Week in China*, May 11, 1929, Vol. XII, p. 353–358; for Baron Shidehara's address, *ibid.*, November 10, 1928, Vol. XII, p. 14–25.

the attainment of the national aspirations of China, but it, of course, is the responsibility of the Government to protect and preserve the legitimate rights and interests that are indispensable to Japan's existence and prosperity. The Government believes that the Chinese people understand this point fully.[1]

Of the recent issues between Japan and China — in addition to those concerned with the unequal treaties which have already been described, and those dealing with Manchuria which will be considered later — the most important relates to the Tsinan incident of May, 1928. There was an earlier Tsinan incident, however, somewhat similar although less serious, in June, 1927. At that time the Nationalist, or southern, armies were advancing against Peking, and would naturally pass through Tsinan, the leading city and railroad center of Shantung, in which some 2,000 Japanese resided. Due to the unfortunate events earlier in the year at Hankow and Nanking, there was considerable apprehension for the safety of the lives and property of these Japanese. Since Tsinan is inland, it was not possible to protect them by naval ships, as the British and Americans were doing for their nationals in the Yangtze valley at that time. Therefore, the Japanese Government sent soldiers into Shantung — a total of 4,300 — and placed 2,000 of them in the city of Tsinan. But both the Peking and Nanking Governments protested to Japan and demanded the immediate withdrawal of the troops. The official news agency of the Nanking Nationalists, moreover, stated that these troops interfered with the advance of the Nationalist forces toward Peking. It was a common belief among the Chinese that these Japanese soldiers in some numbers took part in the fighting against the Nationalist troops. As a result of the strong feeling of the Chinese an anti-Japanese boycott was organized. After the retreat of the Nationalist forces, the Japanese soldiers were withdrawn.[2]

[1] Manifesto of the Japanese Cabinet, July 9, 1929, *Japan Advertiser*, July 10, 1929.

[2] For official statement of the Japanese Government, see J. B. Condliffe, *Problems of the Pacific*, p. 283; for views of Mr. Y. Tsurumi, *ibid.*, p. 499–500. See also, *Current History*, September, 1927, p. 990.

The following year when the Nationalist forces were making their second northern drive and were entering Shantung, Japan once again sent troops to Tsinan. The Nationalist Government protested and demanded that the Japanese soldiers be withdrawn. On May 1, however, both Nationalist and Japanese troops entered Tsinan; the following day their commanders opened negotiations; but on May 3 the soldiers began fighting, and for several days trouble continued with a heavy loss of life and property. Both the Japanese and the Chinese Nationalist Governments issued official explanations, and both transmitted statements to the League of Nations.[1] A serious anti-Japanese boycott was established in many parts of China. Both sides wished to settle the unfortunate affair; but negotiation seemed difficult due to the other aggravated issues which were pending at the time. Finally, after many conferences and much delay, the Japanese minister, Mr. K. Yoshizawa, and the Chinese minister for foreign affairs, Dr. C. T. Wang, signed an agreement, March 28, 1929. The salient points as given out in the official communiqué from the Nationalist Government are as follows:

(1) Within a period of at most two months from the date of signing the agreement, the Japanese Government will withdraw all Japanese troops from Shantung. The National Government, after the withdrawal of all Japanese troops, will bear full responsibility for the protection of Japanese lives and property in China, as it has repeatedly declared that it holds itself responsible according to international law for affording adequate protection to all foreigners in China.

[1] Since Japan is a Member of the League, the letter from the Japanese Government of May 27, 1928, containing the Japanese statement, was circulated to Member states and is published in League of Nations, *Official Journal*, Vol. IX, p. 792.

The Chinese Nationalist Government sent an appeal to the Council of the League, May 10, asking it, in accordance with Art. 11 of the Covenant, to call an immediate meeting of the Council in order to request Japan to withdraw its troops from Shantung. This document according to press reports was sent to the several Members of the Council, but since the Chinese Nationalist Government was not represented in the League — the Chinese delegate holding his appointment from the Peking Government — it was not circulated to all Member states and was not printed in the Official Journal. *Week in China*, May 12, 1928, Vol. XI, p. 28–29.

(2) A Sino-Japanese joint commission . . . will be established for investigation and adjustment of the question of losses sustained by both countries due to the Tsinan incident.

(3) . . . [Both] Governments deplore extremely the unfortunate Tsinan incident of May 3 of last year. Now, the Chinese and the Japanese Governments and peoples sincerely hope for the improvement of Sino-Japanese relationships. In order to achieve this end, they regard the unhappy feeling resulting from the Tsinan incident as past and hereby make this declaration.[1]

The Japanese troops were withdrawn within the stipulated period but the boycott of their goods which the Japanese hoped would be terminated by the agreement did not cease at once. It is to be noted that it is not specified which of the two nations is to pay for the losses at Tsinan which are to be investigated by the Sino-Japanese commission; apparently that is left for recommendation by the commission. The agreement was widely criticized in Japan on the ground that the Japanese Government had obtained none of the terms upon which it had publicly stated it would insist.[2]

Shortly after the agreement regarding the Tsinan affair, Dr. C. T. Wang and Minister K. Yoshizawa exchanged notes May 2, 1929, settling the Nanking incident of March 24, 1927, and the Hankow incident of April 3, 1927.[3] The Nanking notes were similar to those previously signed by the other powers concerned, but the trouble at Hankow, an attack by a Chinese mob, was limited to the Japanese concession in that city and affected Japan alone. Dr. Wang's note read in part:

Although it has been proved, after investigation, that the incident was caused by instigation of the Communists, it is however very regrettable, in view of the friendly relations subsisting between China and Japan. It is proposed, therefore, that in

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, April, 1929, Vol. XIII, p. 53. For the earlier notes exchanged between the Chinese and Japanese Governments, see *ibid.*, July, 1928, Vol. XII, p. 49–58.

[2] *Japan Weekly Chronicle*, April 4, 1929, p. 404–405.

[3] *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1929, Vol. XIII, p. 62.

accordance with the principles of international law, compensation shall be given, within the limits of reason and necessity, for personal injuries and property damage sustained by members of the Japanese consulate and of the Japanese navy and Japanese residents; and a Sino-Japanese joint commission shall be instituted to investigate on the spot the actual damage suffered by the Japanese and to assess the exact amount of compensation.

Regarding the personal injuries suffered by Chinese citizens at the beginning of the incident, it is requested that adequate relief be given so that the whole affair may be amicably settled.

Another important issue between China and Japan relates to the so-called Nishihara loans, which were advanced to the Peking Government between 1917 and 1920 by a syndicate of Japanese bankers formed at the instance of the Japanese minister of finance. One loan was for "war participation," the others were nominally industrial loans and by the terms of the various agreements were to be used for such purposes as building railways in Manchuria and in Shantung. Actually the money was expended by the Chinese military group then in control in Peking in financing themselves and their forces in the civil war. These Nishihara loans, which were guaranteed at least in part by the Japanese Government, were advanced without adequate security and are now in default. They were considered among China's other financial obligations at the Peking tariff conference in 1925. Following this conference, the Japanese Government itself took over these loans, in accordance with an act which passed the Diet, March 24, 1926, and now urges that China make some provision for their payment. The Chinese Government has thus far refused to do this, maintaining that the loans were not made for legitimate economic purposes but for the object of gaining a special political position for Japan in China.[1]

[1] King-Hall, Stephen, *Western Civilization and the Far East*, p. 161–163; Willoughby, *op. cit.*, Vol. II, p. 1002; *China Year Book, 1923*, p. 721.

Soviet Union

The Soviet Union recently exerted a very great influence in China and was exceptionally popular. This period extended from 1919 to 1927, but Soviet prestige was at its height from the middle of 1925 to the middle of 1927. After that it declined rapidly until Russia was one of the most disliked of foreign nations, and her diplomatic and consular officials were expelled from China.

Russia's relations with China must be considered under two heads: China as a whole and Manchuria. In China as a whole, the immense strength and influence which the Soviet Union exerted for some few years were due to two causes: Russia's apparently voluntary renunciation of all its unequal treaties; and, second, the close relations which developed between Soviet Russia and the Nationalist Party, or Kuomintang, at Canton.

The Soviet Government made its advances to China at about the same time that the treaty powers at Paris were refusing to free China from any of the unequal treaties, and were, moreover, transferring to Japan Germany's former rights in Shantung. When the Chinese were feeling grievously disappointed at the action of the powers, Russia sent a message to the people and Governments of China, signed July 25, 1919, and followed it by another to the ministry of foreign affairs of the Chinese Republic, signed September 27, 1920, making in part the following appeal:

> If the people of China wish to become free like the Russian people and be spared the lot prepared for them by the Allies at Versailles, which would make of China a second Korea or a second India, let it be understood that its only ally and brother in its struggle for national freedom are the Russian workers and peasants and their Red Army.[1]

In the first declaration the Soviet Government stated that it annulled all the special privileges including extra-

[1] Bau, M. J., *China and World Peace*, text, p. 130–134; compare text in *China Year Book, 1924*, p. 868–870.

territoriality which Russia had obtained in China; renounced all conquests; gave up its share of the Boxer indemnity; and offered to negotiate on all other issues, "and thus once for all do away with acts of violence and injustice, committed on China by former Russian Governments in common with Japan and the Allies." The second declaration proposed a draft treaty by which the Soviet Government, in return for concessions by China, would give up all these exceptional privileges of the unequal treaties.[1]

Four days before the second declaration was signed, the Chinese Government by presidential decree withdrew its recognition of the old tsarist Government and took over in trust all former Russian rights and interests in China including concessions, Boxer indemnity and extraterritorial privileges. It is to be noted that China, relying on the Russian declaration of 1919, appropriated these former Russian rights and interests by unilateral action and without formal treaty agreement. They were in actual Chinese possession in 1920.

After long negotiations, however, a formal document was signed, May 31, 1924, entitled "Agreement on General Principles for the Settlement of the Questions between the Republic of China and the Union of Soviet Socialist Republics." As the title states, the agreement deals with general principles; but it is provided that there shall be held "within one month after the signing of the present agreement, a conference which shall conclude and carry out detailed arrangements relative to the questions in accordance with the principles." This conference, which should have been held within one month, was not convened for over a year, meeting in August, 1925, but it accomplished nothing. By strict international law the validity of most of the articles of the agreement is questionable if they are viewed as definite grants immediately applicable. Ambassador Karakhan, for example, in order to obtain the former Russian legation in Peking, insisted

[1] *China Year Book, 1924*, p. 870–872.

that the old tsarist treaties with China remained valid until they were canceled. It is doubtful whether the Soviet Government has ever, in a strictly legal sense, recognized the abrogation of extraterritoriality. But the agreement appeared to renounce all the privileges of the unequal treaties, and that was adequate for the Chinese people as a whole. Two definite and immediate provisions were embodied in the agreement and its accompanying documents: the recognition of the Soviet Government by China and a provisional agreement for the management of the Chinese Eastern Railway.[1]

The favorable effect of the declarations of 1919 and 1920 and the agreement of 1924 was heightened by the frequent addresses of the Soviet representatives in Peking, Joffe and, especially, Karakhan. These men helped greatly to convince large numbers, especially of students and the intelligensia, that the Soviet Union was the herald of a new era, and was a real friend of China in its struggle to free itself from the imperialism of the treaty-powers.[2]

The influence of the Soviet Union was greatly increased by a virtual alliance with the Nationalist Party in Canton. Dr. Sun Yat-sen, the leader of the party, was in serious need of outside support and in 1923 sent to both the United States and England to obtain military officers to organize the Nationalist army on a modern basis. Only after his failure did he turn to Soviet Russia which then supplied help of nearly every kind. The Soviet cause was aided by the Chinese Communist Party which was admitted into the Kuomintang in 1924. While Dr. Sun Yat-sen believed that the communists would be converted to the principles of the Kuomintang, and while they did add numbers and enthusiasm to the Nationalist movement, they retained their communist beliefs and became an effective agency for the infiltration of Bolshevik ideas into China.

[1] For the text of the agreement and accompanying documents, see League of Nations, *Treaty Series*, Vol. XXXVII, p. 175; *China Year Book, 1924*, p. 1192.

[2] *China Year Book, 1928*, p. 1319–1320.

Soviet Russia was unquestionably of very great assistance to the Nationalist party at that time. It provided effective advisers, munitions of war, plans for party and army reorganization and methods of modern propaganda. Of the many advisers, the most influential were M. Borodin, who is now known to have taken his orders directly from Moscow, and General Galen, a skillful strategist. It was M. Borodin who planned the Whampoa Military Academy near Canton where some 40 former Russian officers, in addition to Chinese instructors, gave large numbers of enthusiastic Chinese training in both military science and Soviet principles and methods. Great quantities of military supplies of all kinds were furnished by the Soviet Union. When the secret Soviet documents were seized in Peking in April, 1927, they showed that a large proportion of these were still unpaid for, and that the Moscow embassy in Peking was acting as agent between the Soviet Government and the Kuomintang in Canton. One document states that "the cost of supplies already handed over to Canton is 2,500,000 rubles." In August, 1926, Marshal Feng Yu-hsiang signed a receipt for military supplies already received from the Soviet Union valued at 6,395,642 rubles.[1]

The Kuomintang was given the same effective form of organization as the Bolshevik party in Russia, and the army was placed under the political control of the party. The communist methods of propaganda were adapted for use among students, workmen and peasants — for a time with almost startling success. The brilliant military achievements of the Nationalist forces in their northern advance beginning in July, 1926, furnished visible evidence of the effectiveness of the Soviet cooperation.

But after Moscow's influence had reached its height in the early months of 1927, it began to decline. From the beginning the conservative and moderate wings of the Kuomintang had disapproved of communism and of the influence of the Russians. In 1925 and 1926 there were

[1] For the text of the agreement and accompanying documents, see *China Year Book, 1924*, p. 800–806; 817–819.

bitter struggles for power in Canton between the two wings of the party, but they composed their differences sufficiently to unite for the northern campaign. When the upper Yangtze had been conquered these differences broke out again. Soon there were two capitals, one at Hankow under Borodin's influence, and another at Nanking under General Chiang Kai-shek, the leader of the anti-Communist wing. The Nanking attack upon the foreigners, March 24, 1927, which was in large part at least an attempt of the communists to discredit Chiang Kai-shek and the moderates, turned many Chinese against both communists and Russians. A "party-purging movement" to free the Kuomintang from the communists was then carried out by the moderates in the cities under their control. Suspicion of the Russians was strengthened among many Chinese by the revelations obtained from documents discovered in the Chinese raid, April 6, 1927, on the offices of the Soviet military attaché and adjoining buildings in the legation quarter in Peking. These revelations were in part substantiated by the documents which the British found in their raid about the same time on Arcos House in London.[1] The documents, while denounced as forgeries by Moscow, were generally regarded as genuine both in China and in foreign countries. They proved that the Soviet embassy compound contained the headquarters of the communists, who had made elaborate and detailed plans for the overthrow of the Peking Government and the establishment of a communistic régime; that the Soviet embassy had an extensive secret service organization throughout China; and that the Soviet advisers and military instructors in the Nationalist service who took an active part in the councils of the Kuomintang were in the pay of the Soviet Government. In addition, these confidential papers contained comments by the Russians upon the Chinese which were far from complimentary. Altogether these revelations exercised a considerable effect upon Chinese public opinion unfavorable to the Soviets.

[1] For the text of the agreement and accompanying documents, see *China Year Book, 1924*, p. 792–824.

In July, Hankow, the center of the communist and Soviet influence, was also "purged." The cause was believed to be a new set of instructions issued by the Third (communist) Internationale, directing the communists to take control of the leading committees of the Kuomintang and to form a separate Red Army. When the radical Chinese leaders, who were still trying to carry out a policy of co-operation with the Soviet Union, learned by chance of this action of the Third Internationale, and realized that Soviet authorities were working for their overthrow, they turned against both communists and their Russian advisers and drove Borodin, Galen and their associates from Hankow. But the communists were not entirely suppressed. In Canton, December 11, with the assistance of some of the Russian officials in the local consulate, they seized the city, set up a communist régime accompanied by a reign of terror and maintained themselves for three days; then they were overthrown and a ruthless anti-communist suppression was instituted in which, it was estimated, some 2,000 were put to death. As a result, vigorous anti-Soviet measures were taken in Nanking, Shanghai and Hankow.

The year 1927, which opened so brilliantly for the Soviet Union in China, closed with the almost total elimination of Russian political influence from that country. As a result of the Canton communist uprising, the Nationalist Government severed relations with the Soviet Union December 14, on the ground that the Soviet consulate and commercial agency had been used as bases of operations by the Canton communists, and ordered all Soviet consulates and commercial agencies throughout Nationalist territory to be closed and their staffs to leave the country. Since the Russian mission had left Hankow in July, and the Soviet embassy in Peking had been closed as a result of the Chinese raid in April, the only officials of the Soviet Union left in China at the close of 1927 were a few consuls in the north.[1] This situation continued until July, 1929,

[1] For the decline of Russian influence in China, see Toynbee, A. J., *Survey of International Affairs*, 1927, p. 331–365; *China Year Book, 1928*, p. 1349–1401.

when all political relations were severed temporarily, due to the crisis over the Chinese Eastern Railway.

The dramatic change in the sentiment of Chinese toward Soviet Russians may be pictured from the words of a foreigner who lived through the terrible days of December in Canton, and wrote of the events shortly after they occurred. The attitude of the Cantonese, who only a few months before had welcomed the Russians with enthusiasm, is described in his letter:

> The five Russians (including the Soviet vice consul) captured in the revolutionary headquarters were the first to be killed. Before a large crowd of Chinese and a few foreigners they were stood up against the wall of the building where they had been directing the revolution and were shot. A shout of approval went up as these men fell before the firing squad.

The present issues between the Soviet Union and China relate to Manchuria and Mongolia. The latter is a vast, semi-arid region, one third as large as continental United States but with a population of only some 2,000,000, most of whom are nomads. Although Mongolia has been a part of China for some centuries, it has enjoyed a large measure of autonomy. Shortly before the World War, the tsarist Government attempted to extend its political influence in the country. After the World War it was occupied in turn by White and Red Russian troops. In the general agreement signed in 1924, Russia stated unqualifiedly that it recognizes Mongolia to be "an integral part of the Republic of China and respects China's sovereignty therein." Nevertheless, the Soviet Union maintains actual control over the country. The National Government of China, as is natural, is now insisting upon extending actual jurisdiction over Mongolia, and in January, 1929, appointed a Mongolian and Tibetan affairs committee to institute a civil administration in both these regions under the sovereignty of Nanking but with a good measure of

autonomy in local affairs. There is a definite clash of policy here between Nanking and Moscow.[1]

Notwithstanding the apparent elimination of all Soviet influence from China as a whole, it is not at all improbable that relations may later be resumed with Russia — after the issue over the Chinese Eastern Railway shall have been settled — and an attempt be made, as Japan is making it, to be friendly with the Soviet Union as a state, while hostile to communism. In fact, such has been the policy of certain of the Chinese leaders. But China would find it much more difficult to carry out such a policy than does Japan.

[1] Count Carlo Sforza, "Imperialistic Russia in China," *Foreign Affairs*, October, 1927, p. 67–74; Weigh, Ken-shen, *Russo-Chinese Diplomacy*, Chap. IV, V, VII; *China Year Book, 1928*, p. 373–386.

III. MANCHURIA

Manchuria is the danger zone of the Far East. It is the meeting point of the ambitions of three states, China, Japan and the Soviet Union, each of which has interests and policies in this great region which are in conflict with those of the other two.

Manchuria is a large, wealthy, fertile area only partially developed and settled. In size it is nearly as large as France and Germany combined. Its wealth consists of valuable natural resources, minerals and timber, but especially extensive deposits of coal and a fair supply of iron ore. It is well adapted for agricultural produce; in many respects it is similar to the great grain sections of our own Northwest. Especially notable has been the development of the soya bean; Manchuria now raises over 200,000,000 bushels of beans annually, or 52% of the world's supply.[1]

Its trade with other parts of China and with foreign countries has risen in 20 years from 52,000,000 Haikwan taels in 1907 to over 676,000,000 in 1927.[2] Most remarkable has been the large recent immigration. During the Manchu period the central and northern parts of the region were largely unsettled, but in the past few years an immense immigration has been pouring into the country which in 1927 numbered over 1,178,000 persons. The total population in 1927 was variously estimated from 23,000,000 to 27,500,000.[3] It was stated by some of the experts at the Institute of Politics at Williamstown in 1928 that Manchuria could support a Chinese population of 100,000,000 on the same standard of living as that existing

[1] South Manchuria Railway Company, *Report on Progress in Manchuria, 1907–1928*, p. 115–117.

[2] *Ibid.*, p. 102–103.

[3] *Ibid.*, p. 1, 11–14; *China Year Book, 1928*, p. 3.

in other parts of China. There are certainly great possibilities for further development.

Manchuria is admittedly a part of China although for some years it has enjoyed and still enjoys a large measure of actual autonomy. Both Russia and Japan, however, have been granted by treaty exceptional and valuable privileges within it. The most important of these have been railroad concessions, which in turn have led to further grants of various kinds, and for a time to the partition of the country into Russian and Japanese spheres of interest. The railroad history in brief is that in 1896 China granted to Russia the right to build a line across central Manchuria to be a part of the great trans-Siberian system. In 1898, an additional concession gave Russia the right to extend this road south from Harbin to Port Arthur, and granted Port Arthur and the adjoining land on the Liaotung Peninsula by lease for 25 years. After the Russo-Japanese War, Russia's rights in South Manchuria including the leasehold and the railroad from Port Arthur as far north as Changchun were transferred to Japan. By subsequent treaties Russia and Japan agreed between themselves to consider Manchuria as divided into spheres of interest, the central and northern part being assigned to Russia and the southern part to Japan. But since the World War these agreements have ceased to be operative. More recently, with the rise of the Nationalist movement, China has been trying to regain these exceptional concessions from both the Soviet Union and Japan.

But the present complicated situation in Manchuria necessitates a much more detailed account of the relations (1) between the Soviet Union and China, (2) between the Soviet Union and Japan, and (3) between Japan and China.

Sino-Soviet Relations

The relations between Russia and China in Manchuria have for over 30 years centered in the Chinese Eastern Railway. The acute situation which seemed to develop so suddenly in July, 1929, goes back to May, 1896, when

in the secret treaty of alliance between China and Russia, sometimes termed the "Li-Lobanov treaty," the Chinese Government promised to permit the Russo-Chinese (later Russo-Asiatic) Bank to construct a railroad across central Manchuria in the direction of Vladivostok,[1] as an essential link in the Russian trans-Siberian line. The Russo-Chinese Bank had already been chartered by the Russian Government, December 22, 1895. Although a Russian joint-stock company, French financial groups invested heavily in it and it was stated in 1927 that the French interests amounted to 60%.[2] It was in large measure a governmental agency; the Russian minister of finance had general supervision of the operations of the bank and the confirmation of the nomination of the directors.[3]

With this Russo-Chinese Bank the Chinese Government signed a contract, September 8, 1896, granting it the right to construct and operate the railroad across Manchuria. The contract provided that the bank should establish for this purpose a new company under the name of the Chinese Eastern Railway Company. To it the Chinese Government transferred "the complete and exclusive right to operate the line on its own account and risk . . . [for a period of] 80 years from the day on which the line is finished and traffic is in operation. This period having elapsed, the line with all its appurtenances will pass free of charge to the Chinese Government." Since the line was opened in 1903, it will revert to China in accordance with the terms of the contract in 1983. After 36 years from its completion, moreover, "the Chinese Government will have the right to buy back this line upon repaying in full all the capital involved as well as all the debts contracted for this line plus accrued interest. . . . In no case may the Chinese Government enter into possession of this line before the appropriate sum is deposited in the Russian State Bank." In 1939, therefore, the Chinese Govern-

[1] *Conference on the Limitation of Armament*, p. 1414.

[2] Toynbee, *op. cit.*, 1925, Vol. II, p. 338; Weigh, Ken-shen, *Russo-Chinese Diplomacy*, p. 56.

[3] *Manchuria: Treaties and Agreements*, p. 17–27.

ment will have the legal right to purchase the Chinese Eastern Railway. The shares of the company could be acquired only by Chinese or Russian subjects, although as a matter of fact no Chinese did acquire any of them. It was also stated that the company might hold "the lands actually necessary for the construction, operation and protection of the line;" and it was stipulated that "the company will have the absolute and exclusive right of administration of its lands," a provision which was used by Russia to justify its political control of the whole railroad zone. To assist in the construction of the line, the Chinese Government paid to the bank 5,000,000 Kuping taels, with the promise that it should share in proportion to this payment in the profits and losses of the bank; and that a sum of the same amount should be returned to China "the day when the line is finished and the traffic is in operation." [1]

The Chinese Eastern Railway Company was then formed as a Russian joint-stock company and a copy of its statutes, or charter, was confirmed by the Russian Government, December 16, 1896. Its seal, however, was given by the Chinese Government, which also had the right to name the president of the company. The share capital was fixed at 5,000,000 nominal credit rubles divided into 1,000 shares all of which the Russo-Asiatic Bank claims to own. The intimate connection between the Chinese Eastern Railway Company and the Russian Government is shown by the fact that the latter guaranteed the interest on and amortization of the bonds of the company, and paid its early deficits out of the Russian Imperial Treasury.[2]

From the building of the railway until the Soviets came into power in Russia the bank and the Chinese Eastern Railway Company functioned as agencies of the Russian Government. In 1918, however, the Soviets nationalized all banks in Russia, including the Russo-

[1] *Manchuria: Treaties and Agreements*, p. 13–17.
[2] *Ibid.*, p. 34–39.

Asiatic. Since this action injured the French stockholders and bondholders, the French government permitted the reorganization of the bank to be effected in Paris. The reorganized bank was naturally hostile to the Soviet régime, but it definitely recognized that the actual ownership of the Chinese Eastern Railway was vested in the *de jure* Russian Government. A letter from the Russo-Asiatic Bank to the Russian ambassador in Paris, March 18, 1918, read in part:

> . . . as soon as there shall be formed and recognized by the Allies, a lawful Government, the rights in the Chinese Eastern Railway belonging to it, shall again revert to such Government automatically, *i.e.*, when the Russian Government shall demand it.

An agreement was signed October 2, 1920, between the Chinese Government and this reorganized anti-Soviet Russo-Asiatic Bank, whose head office was for the time being in Paris, by which China assumed "provisionally, pending such arrangement concerning the railway as the Government may reach with the Russian Government that may be recognized by China, the supreme control exercised over the said railway by virtue of the contract and of the regulations in force." [1] This action was protested by the Soviet Government which was not recognized by China at the time.

At the Washington Conference the status and the physical condition of the Chinese Eastern Railway were considered. A subcommittee of technical advisers on this road reported:

> The necessary funds for its construction were furnished by the Russian Government and it was built under the direction and supervision of that Government acting through the Chinese Eastern Railway Company. The railway is in effect the property of the Russian Government. China has certain ultimate reversionary rights which are provided for in the original contract of 1896.[2]

[1] *Manchuria: Treaties and Agreements*, p. 210–220.
[2] *Conference on the Limitation of Armament*, p. 1376.

The conference regarded China's supervisory control in the nature of a trust pending the re-establishment of a generally recognized Russian Government, and all the conference powers except China voted that they reserved "the right to insist hereafter upon the responsibility of China for the performance or nonperformance of the obligations towards the foreign stockholders, bondholders and creditors of the Chinese Eastern Railway Company." [1]

The Chinese Eastern Railway was under the supervision of an Inter-Allied committee from January, 1919, to October, 1922. But the only significance of this supervision upon more recent controversies is the fact that certain of the Governments, including those of Japan and the United States, advanced large sums to the railway which were later made the basis of claims against the company.

The present status of the railway as between China and the Soviet Union rests upon the agreement on general principles, and the agreement for the provisional management of the Chinese Eastern Railway signed at Peking, May 31, 1924.[2] These documents provide that the railway "is a purely commercial enterprise" which is to have direct control of the business operations of the line, but that Chinese authorities are to have jurisdiction over "judicial matters, matters relating to civil administration, military administration, police, municipal government, taxation and land property." It is stipulated that the Soviet Union "agrees to the redemption by the Government of the Republic of China with Chinese capital of the Chinese Eastern Railway, as well as all appurtenant properties, and to the transfer to China of all shares and bonds of the railway," the details of the transfer to be arranged at the conference scheduled to be held shortly between the two states. The management of the railway is divided as equally as possible between the Russians and Chinese; and the board of directors consists of 10 members, five

[1] *Conference on the Limitation of Armaments*, p. 1658.

[2] With these might be included the Mukden agreement of September 20, 1924, although its legal status is doubtful. See *infra*, Appendix VII, 2*b*.

Chinese, including the president, and five Russians. Nationals of the two countries are to be employed on the road in accordance with the principle of equal representation. The manager of the road, however, who is the most important official, is to be a Russian. Of particular importance as it has turned out is Art. VI of the agreement on general principles, by which each state pledges itself against propaganda in the territory of the other:

> The Governments of the two contracting parties mutually pledge themselves not to permit within their respective territories the existence and/or activities of any organizations or groups whose aim is to struggle by acts of violence against the Governments of either contracting party.
>
> The Governments of the two contracting powers further pledge themselves not to engage in propaganda directed against the political and social systems of either contracting party.[1]

These agreements were made with the Chinese Government at Peking. But, since Manchuria at the time was under the practically autonomous rule of Marshal Chang Tso-lin who did not recognize Peking, the Soviet Union made a separate agreement with him September 20, 1924. This was in the main similar to the agreements made with Peking but there were a few differences, particularly in the article which stated that the Chinese Eastern Railway was to be returned to China without payment at the end of 60 years.[2] For the purposes of the impending Sino-Soviet conference, this Mukden agreement by a Chinese presidential mandate was made to form an annex to the Peking agreements of May 31, 1924 — provided the mandate could be interpreted as legally having that effect.[3]

Vigorous protests were registered against these railway agreements. Japan and the United States protested because their interests in the road based on their advances

[1] For these agreements and accompanying documents, see League of Nations *Treaty Series*, Vol. XXXVII, p. 175, 193; *China Year Book, 1924*, p. 1192–1200.

[2] *China Year Book, 1925*, p. 797–800.

[3] *China Year Book, 1926*, p. 1098.

of money and materials had not been recognized. China replied that claims such as these would not be affected by the new agreement with the Soviet Union.[1] France claimed that the predominance of French capital in the Russo-Asiatic Bank gave it a contingent interest in the railway, but the Chinese Government declared that the bank is a purely Russian company and not subject to French protection. More significant, possibly, was the protest of the Russo-Asiatic Bank that its rights as owner of all the stock of the Chinese Eastern Railway had not been respected.[2] A notable feature of the agreements of 1924 is that they were made, not with the Russo-Asiatic Bank as in 1896 and 1920, but with the Soviet Government. In the judgment of some, the Soviet Union and not the bank is now recognized as owner of the railway.[3]

For the past five years since 1924 there has been a struggle between the Soviet and the Chinese Governments for actual control of the railway. At first the Russians gained the advantage. After the directors of the railway company according to the terms of the agreement of 1924 had elected a Russian general manager, the Russian members consistently absented themselves from the meetings of the board, thus preventing a quorum (seven) and leaving practically full control of the road in the hands of their general manager. This situation remained for some time, since the conference which was to meet a month after the signing of the agreement of May 31, 1924, did not convene until August 26, 1925, and finally adjourned without coming to any permanent settlement of the railway problem.[4] Serious difficulties developed between the Russian manager and the local Chinese authorities. In January, 1926, Mr. Ivanov, the manager, refused permission to Marshal Chang Tso-lin's soldiers to travel on the line without prepayment

[1] For a discussion of the validity of these protests, see Frederick Deane, "The Chinese Eastern Railway," *Foreign Affairs*, September, 1924, p. 147.

[2] Good accounts of this tangled history may be found in Willoughby, *op. cit.*, Vol. I, Chap. XV; Toynbee, *op. cit.*, 1925, Vol. II, p. 337–346.

[3] Sforza, Count Carlo, *op. cit.*, p. 67; Willoughby, *op. cit.*, Vol. I, p. 446.

[4] For the conference, see *China Year Book, 1926*, p. 1096–1101.

of fares as had been customary. Chang Tso-lin then had him arrested. The Soviet Government replied by a three-day ultimatum and Mr. Ivanov was released.[1]

More recently the Chinese have been able to take over the control of important activities of the Chinese Eastern Railway. In February, 1926, they abolished the Municipal Council in the Russian city, or section, of Harbin and instituted a Chinese administration. Later they took possession of the river fleet of the railway company, took over certain of the schools which it had maintained in the railway zone and forced or persuaded the Russians to make frequent divisions of the net income of the line which is large — this money can hardly be termed profits, since no interest is paid on the bonds or dividends on the stocks. In the fall of 1927 in Manchuria it was a common query in conversation whether the Chinese authorities would take the final step and seize complete control of the entire railway; certainly some of the Chinese were already at that time looking forward to this development as a proper and necessary movement in the recovery of their sovereign rights.[2]

The occasion which led China to take over the administration of the Chinese Eastern Railway system was the communist propaganda carried on by Russian officials and railway workers in Manchuria. On May 27, 1929, Chinese police raided the Soviet consulate general in Harbin and found and arrested over 80 persons who were attending a propaganda conference of the Third Internationale (Comintern). According to the official Chinese statement, 42 were members of the staffs of various Soviet consulates, including the Soviet consuls general at both Harbin and Mukden. Thirty-nine were important officials of the Chinese Eastern Railway and of Soviet organizations in Manchuria.[3] The Soviet Government on May 31 pro-

[1] For the correspondence over this issue, see *ibid.*, p. 1101–1105.

[2] Certain of these developments are discussed in Toynbee, *op. cit.*, 1926, p. 280–283.

[3] "A communication of the National Government of the Republic of China to the signatories of the treaty for the renunciation of war," August 21, 1929; *New York Times*, August 22, 1929.

tested against the raid, the arrest of the Russians and the seizure of documents.[1]

The climax came July 10 and 11 when the Chinese authorities dismissed the Russian general manager, the five directors and all other important officials; arrested many of the Russians, and closed all Soviet organizations. The Chinese president of the board of directors of the railway issued a statement explaining that this action was due to the repeated and long-continued violation by the Soviet Union of the agreement of 1924, especially to the communist propaganda carried on contrary to Soviet pledges in the agreement. He said:

> Moreover Soviet communist propaganda through all agencies connected with the railway is proved by documentary evidence seized in the recent raid of the Soviet consulate general in Harbin. Consequently I am constrained to take the present drastic measures to safeguard China's interests in the Chinese Eastern Railway.[2]

The Soviet Government sent a three-day ultimatum, July 13, to the Chinese Government demanding that the Chinese authorities should at once cancel all arbitrary orders regarding the Chinese Eastern Railway, release the Soviet citizens who had been arrested and cease all persecution of Soviet citizens and institutions; it proposed that the two Governments should call a conference immediately to settle all questions regarding the railway. The note maintained that the acts of the Chinese were clearly illegal; "the very fact of the issuance by the *tupan* [the Chinese president of the board of directors] of the one-sided order over his single signature and without co-ordinating his action either with the board of directors or with his assistant who is a Soviet citizen makes this act of his obviously unlawful, not to mention the

[1] *Week in China*, June 8, 1929, Vol. XII, p. 472–473; *North China Herald*, June 8, 1929, p. 382; *L'Europe nouvelle*, August 3, 1929.

[2] *New York Times*, July 12, 1929.

fact that this absolutely violates the principle of parity established by the Soviet-Chinese agreements." [1]

In reply the Chinese Government at Nanking on July 17 defended what had been done regarding the railway on the ground that the Soviet authorities had not carried out faithfully the provisions of the agreement of 1924 especially as to propaganda; demanded that the Soviet Government should give adequate protection to Chinese nationals in Russia and should release all Chinese imprisoned in that country, who were estimated to number 1,000; and declared that a Chinese plenipotentiary was leaving Nanking for Moscow to discuss all pending matters.[2]

The Soviet Government on July 18 characterized this reply as "unsatisfactory in content and hypocritical in tone," and declared that the real object of the violent acts of the Chinese Government was manifestly to seize control of the Chinese Eastern Railway. It therefore broke off the few remaining diplomatic and consular relations with China, recalled all Soviet railway officials, closed the border to railway communication and ordered the Chinese diplomatic and consular officials to leave the territory of the Soviet Union.[3]

Informal negotiations, however, were soon initiated between the Soviet and Chinese officials, but the Chinese Government refused to accede to the Soviet demand that the Chinese Eastern Railway be restored to its former status before the convening of a formal conference.

A carefully prepared statement of the Chinese case was communicated on August 21 to all states which signed the treaty for the renunciation of war. It said in part:

A thorough examination of the persons arrested and the documents discovered in the premises [of the Soviet consulate general, May 27] revealed the fact that the Union of Soviet Socialist Re-

[1] *New York Times*, July 15, 1929; *L'Europe nouvelle*, August 3, 1929, p. 1078; *Week in China*, July 20, 1929, Vol. XII, p. 566.

[2] *New York Times*, July 17, 1929; *L'Europe nouvelle*, *op. cit.*, p. 108.

[3] *New York Times*, July 18, 1929; *L'Europe nouvelle*, *op. cit.*, p. 1081; *Week in China*, July 20, 1929, Vol. XII, p. 572.

publics was not only conducting communist propaganda in China but was actually pushing forward its secret plans to nullify China's unification, to overthrow the Chinese Government, to organize secret forces for destroying the Chinese Eastern Railway and to carry out a policy of wholesale assassinations and thereby bring about a world-wide revolution.

What is more, the Chinese Eastern Railway and the Soviet state enterprises and organizations were being utilized as bases for carrying out the nefarious schemes of the Union of Soviet Socialist Republics.

After quoting Art. VI of the Sino-Soviet agreement of 1924 by which each of the two Governments pledges itself not to carry on propaganda against the other, the communication continued:

The facts being as above stated, it is clear that the Union of Soviet Socialist Republics has violated the entire treaty stipulation.

The Chinese Government in conclusion stated that it would abide by its obligations under the treaty for the renunciation of war, and that it was "ready at any time within the limits of possibility to discuss and settle with the Soviet Government the disputes" which had arisen over the Chinese Eastern Railway.[1]

"The status of the Chinese Eastern," as one of the writers on this subject has expressed it, is "one of the most involved problems of the Far East."[2] At the Washington Conference, as has been pointed out, the experts reported that "the railway is in effect the property of the Russian Government." Yet this contention is challenged by the Russo-Asiatic Bank which maintains that from a strictly legal point of view the title to the railway is vested in a private company, the Chinese Eastern Railway Company, which in turn is controlled by the bank through the ownership of all its stock. While the stock may technically be carried on the books of the bank, there is some reason to

[1] A communication of the National Government of the Republic of China to the signatories of the treaty for the renunciation of war, *New York Times*, August 22 ,1929.

[2] Deane, Frederick, *op. cit.*, p. 147.

believe that it has actually been owned by, or under the control of, the Russian Government. Certainly the Chinese Eastern Railway Company was merely the agent of the Russian Government. But the bank has been confiscated by decree of the Soviet Government, a decree enforced within Soviet jurisdiction. The bank, however, claims to have removed its headquarters to Paris and has gone into liquidation. For some time the railway company has been paying no dividends on the stock, which is claimed by the Russo-Asiatic Bank, nor interest on the bonds variously estimated to amount to around 400,000,000 gold rubles, nearly all of which are held by the Soviet Government. China has possessed certain reversionary rights from the beginning — the right of complete ownership after 80 years, and of purchase after 36 years — and additional rights by the agreement of 1924, the validity of which is contested by the Russo-Asiatic Bank.

Soviet-Japanese Relations

Soviet-Japanese relations in Manchuria have fluctuated between war and close military alliance. At present there are no serious issues between the two states but such issues might easily develop.

Japan fought the war of 1904–1905 in part to prevent Russia from absorbing Manchuria. But after obtaining the Liaotung leasehold and the railroad concessions in South Manchuria, Japan signed with Russia a series of treaties in 1907, 1910, 1912 and 1916, by which the two powers divided Manchuria into spheres of interest, and promised to support each other by military force, if necessary, in the maintenance of their respective claims.[1] After the World War Japan, however, adopted a policy of railroad expansion in cooperation with the Chinese in the central and northern parts of Manchuria, the region which was formerly recognized as a Russian sphere. The Soviet

[1] For the texts of these treaties including certain of the secret agreements, see *Manchuria: Treaties and Agreements*, p. 116–117, 141–143, 183–184.

Government protested against the building of certain of these railroad lines, particularly the one extending to Anganchi (near Tsitsihar) on the Chinese Eastern Railway. It proposed to Japan in 1926 that the two powers should revive their former spheres of interest, but the Japanese authorities are said to have replied that spheres of interest in China were done away with at the Washington Conference.[1] In the early part of 1928, according to certain Manchurian newspapers, an agreement regarding their Manchurian interests was made by the Soviet and Japanese Governments which was brought about by the late Count Goto during his visit to Moscow. Although it has been authoritatively denied that any agreement was made, there are some who believe that the basis exists for such an arrangement, Japan agreeing to respect Soviet claims in Manchuria in exchange for Soviet concessions to Japan in Siberia and the maritime provinces.

Any event which threatens to disturb the peace in Manchuria is naturally of particular concern to Japan due to its own great interests in the country, and may lead to action of some sort by the Japanese Government. The seizure of the Chinese Eastern Railway by the Chinese authorities was frequently discussed as a possibility by Japanese during the past couple of years, and the dominant opinion seemed to be that such a step would be unfortunate from the Japanese point of view.

At present Japan has a free hand in Manchuria so far as the Soviets are concerned. But some of the thoughtful Japanese look forward with some apprehension to the time, in one or two decades, when Russia may "come back" in strength and in nationalistic ambitions. They realize that any Russian Government with an imperialistic program would have plans in Manchuria which as in 1904–1905 would conflict with vital interests of Japan.

[1] Toynbee, *op. cit.*, 1925, p. 256.

Sino-Japanese Relations

Fundamental Divergence in Viewpoint

The most difficult and the most vital issue in Manchuria — and in the entire Far East — is that between China and Japan. It involves a fundamental difference of viewpoint as well as a large number of concrete, perplexing problems. This fundamental divergence, moreover, is intensified by strong national sentiment on both sides.

To the Chinese the main issue is: "Shall Manchuria, a part of our homeland, be Chinese or Japanese?" They believe that Japan is trying to take part at least of the country from them. They are determined to prevent the further expansion of Japan's interests in Manchuria and to regain the concessions already granted. A typical view was expressed by one of the foremost Chinese in Peking some months ago when he said, "we are too weak to do much now but it may well mean war in the days of our children."

To the Japanese the issue is: "Shall the rights won in South Manchuria by great national sacrifices in two wars, and now held rightfully and legally, be respected or be seized from us?" They do not forget that the battlefields of the Russo-Japanese War lie from Port Arthur to Mukden along the route of the South Manchuria Railway. To interpret their attitude they sometimes say, "the South Manchuria Railway is our Panama Canal," and "Japanese have the same feeling toward South Manchuria as Americans would have toward Panama if they had fought their greatest national war to obtain it." Some Americans, therefore, believe that in national sentiment South Manchuria is to Japan what both Panama and Gettysburg are to America.

Japan's vested interests in Manchuria comprise the lease of the Liaotung Peninsula, the South Manchuria Railway and other economic and financial enterprises. The leased territory, which contains Port Arthur and Dairen, although but a very small part of Manchuria as a whole,

comprises an area slightly larger than the state of Rhode Island. Originally granted to Russia for 25 years, it was transferred to Japan in 1905. In 1915 the lease was extended to 99 years. The railway owns and operates lines totaling 695 miles. By the terms of the original Russian contract with China, the road would revert to China after 80 years from its opening to traffic, but by a treaty in 1915 it was stipulated that the date for its restoration should be the year 2002. [1]

The South Manchuria Railway Company is controlled by the Japanese Government through its ownership of 50% of the stock and through the appointment of the leading officials of the company by the administration in power in Tokyo. The total capital investment made by Japanese in Manchuria, according to the *Report on Progress in Manchuria, 1907–1928*, recently published by the South Manchuria Railway, amounts to 1,563,000,000 yen; and if to this be added "the Government property owned by the Kwantung Government (Japanese leased territory) and the Japanese army, the annual grant from the home Government for the last 21 years, private property owned by Japanese residents in Manchuria, etc., the total investment of Japan in Manchuria to-day amounts to 2,006,800,000 yen." That is approximately $1,000,000,000 (gold).[2] The railway, the great port of Dairen, the company's towns in the railway zone, its mines, factories, hotels and other enterprises are administered on an exceptionally high plane of order and efficiency.

Japan naturally wishes to maintain these vested interests and also the opportunity to cooperate with the Chinese in the further economic development of the whole region. In these desires there appears to be substantial unanimity in Japan, notwithstanding differences of view regarding the details of the Manchurian policy. Mr. Hirosi Saito, Japanese consul general at New York, stated at the In-

[1] For original contract, 1898, see MacMurray, *op. cit.*, Vol. I, p. 119; for transfer to Japan, *op. cit.*, Vol. I, p. 550 and 552; for extension of the leases, *op. cit.*, Vol. II, p. 1220.

[2] *Report on Progress in Manchuria, 1907–1928*, p. 47.

stitute of Politics at Williamstown 1928, in a prepared address:

> It is, however, to be unmistakably understood that there is a fundamental unanimity of opinion throughout Japan that it is absolutely necessary to safeguard the Japanese interests and rights and trade in Manchuria without which her national economic life would really collapse.[1]

Practically all Japanese stress the vital importance to them of their economic interests in Manchuria. Many of them, moreover, feel that under existing conditions in China, it is necessary to maintain for the time being their political interests as well; while some point to the strategic value of Manchuria in case of serious difficulties with the Soviet Union. In the present situation, certainly, Japanese armies could reach central, if not northwestern, Manchuria before the Russians. All responsible leaders, however, insist that Japan desires neither to seize territory in Manchuria, nor to make of it a protectorate. The Japanese attitude may be judged from statements of their representative leaders.

Baron Tanaka while premier said:

> Since Manchuria and Mongolia, particularly the three eastern provinces, have an important bearing upon the national defense and existence of this country, we must devote especial attention to those regions. We feel, moreover, particular responsibility as a neighbor for making them suitable for the residence of both Japanese and foreigners by the preservation of peace and their economic development.[2]

Baron Shidehara, now minister for foreign affairs, a political opponent of Baron Tanaka and the spokesman

[1] See also statement of Mr. K. K. Kawakami in "Manchuria; The Crux of Chino-Japanese Relations," *Foreign Affairs*, April, 1928, p. 381:

"Rightly or wrongly, the Japanese with the exception of a small minority are agreed that those interests especially in Manchuria, can not safely be relinquished. If those interests can be preserved in a friendly way, well and good, but if friendly policy fails to protect them, some other means must be devised. That, in brief, is the prevailing sentiment. No cabinet which ignores this sentiment can long withstand public pressure."

[2] Statement at the Oriental conference, July 7, 1927. See Appendix.

of the "friendship policy" toward China, said in October, 1928:

Japan's rights and interests in the three eastern provinces are deeply rooted in history. . . . They have been built up with heavy sacrifices and tremendous efforts. As has often been proclaimed to the world, they have close bearings on the national existence of Japan. No matter what form of government may be adopted in the three eastern provinces these rights and interests must remain absolutely unimpaired.[1]

Mr. M. Hanihara, former ambassador at Washington, wrote recently in an article in the *Japanese Diplomatic Review:*

Japan has very great interests in Manchuria and those interests were bought at extraordinary sacrifices of blood and money, and the maintenance of these especially important interests must be a guiding principle of Japan's foreign policy. . . . However, Manchuria is neither a territory nor a protectorate of Japan and Japan has not an intention, as has frequently been manifested, of making it her territory or protectorate.[2]

Mr. M. Zumoto, a former member of the Diet, a leader of the liberal journalists of Japan and the Japanese spokesman at the Institute of Politics, Williamstown, and at the Institute of International Relations, Seattle, 1928, explained that Japan's interests in Manchuria are not merely economic, "they are also political and strategic," and added:

To be entirely frank, if China wishes to reduce our interests in Manchuria to an economic basis divorced from all military or political implications, China has the remedy in her own hands and China alone has it. It is not in Japan's capacity to accomplish that most desirable end.

The attainment of China's wish is altogether conditioned upon her ability, first, to establish a stable and efficient government; secondly, to convince us of her capacity to defend her territory

[1] *Japan Weekly Chronicle*, November 8, 1929, p. 580.
[2] *Week in China*, May 11, 1929, Vol. XII, p. 355.

against foreign enemies; and thirdly, to give us sufficient guaranty of her willingness and efficiency to guard our interests against the menace of the Red infection. When these conditions are fulfilled our interests in Manchuria will automatically become exclusively economic in nature. In the meanwhile, whenever danger threatens her position in Manchuria, Japan will never fail to take adequate steps for the protection of her nationals.

On this point the whole nation is united irrespective of class or party.[1]

But the Chinese leaders do not recognize Japan's present position in Manchuria as justified either morally or legally; to them it seems that Japan is keeping property and rights which belong to China. The view of Nationalist China was frankly expressed during the summer of 1928 at the institutes at Williamstown and Seattle by Dr. C. C. Wu, now Chinese minister at Washington and formerly minister for foreign affairs of the Nationalist Government at Nanking. He said:

Japan is now exercising practically absolute control over a certain portion of Manchuria — civil, political and military control. . . . Manchuria is Chinese territory, 100% Chinese territory. . . .

The Japanese claims to Manchuria are familiar to us and are reducible to three types:

(1) Military necessity. For example, that Manchuria is the first line of defense of Japan. . . . Why build a fence in your neighbor's yard to protect your own garden?

(2) Japan points out that Manchuria would have been lost by China anyway to Russia and that Japan saved it for the Chinese so that Japan is entitled to stay there and to have the gratitude of China! If my watch is to be stolen I am not greatly concerned which of two thieves has possession of it and I am not particularly grateful to the thief who keeps it from the other.

(3) The third claim is based upon economic necessity. Now, the economic interests of Japan in Manchuria are worth considering but under a condition precedent. If Japan accepts the proposition that their desire to develop the resources of Manchuria shall not be combined with a desire to dominate it politically, I,

[1] Martin, C. E., and Leebrick, K. C., *The Pacific Area*, p. 63–64.

for one, believe we can talk business. . . . [But] our Japanese neighbors want more than economic development, they want political control.[1]

The Concrete Issues

This difference in viewpoint is also shown in a number of concrete issues, particularly as to the validity of the extensions to 99 years of the lease of the Liaotung Peninsula and the concession to the South Manchuria Railway; the treaty right of the Japanese to lease land in South Manchuria; the alleged right of Japan to maintain railway guards; and a tangle of conflicting claims as to new railroads.

The Chinese maintain that the treaty of 1915[2] extending the lease and the concession to 99 years is null and void, since it was made under threat of force in time of peace without any *quid pro quo* and was not ratified by the Chinese Parliament according to the Chinese constitution. The Japanese maintain that although "it is evident that no nation can have given ready consent to cessions of its territorial or other rights of importance," yet all the Sino-Japanese treaties of 1915 are valid since they were "formally signed and sealed by the duly authorized representatives of the two Governments, and . . . the exchange of ratifications was effected in conformity with established international usages."[3]

The original lease of the Liaotung Peninsula would have expired in 1923. Shortly before the date arrived, the Chinese Government sent a note to the Japanese Government dated March 10, 1923, stating that the treaties of 1915 were void and asking the Japanese Government, in view of the early expiration of the original lease, to appoint a day for the discussion of the transfer of the administration of Dairen and Port Arthur to China. The Japanese Government replied that the lease had been legally extended to, and would be in force for, 99 years.[4]

[1] Martin, C. E., and Leebrick, K. C., *The Pacific Area*, p. 6–7.

[2] MacMurray, *op. cit.*, Vol. II, p. 1220.

[3] *Conference on the Limitation of Armament*, p. 324–338; Willoughby, *op. cit.*, Vol. I, Chap. VIII.

[4] Willoughby, *op. cit.*, Vol. I, p. 242–243.

The Japanese claim the right to lease land in South Manchuria, a right granted to them in the treaties of 1915, but the Chinese authorities refuse the necessary permits.

Japan maintains railway guards along the South Manchuria system but China insists that there is no treaty right for this privilege. Russia formerly maintained railway guards, basing its right upon a clause in the contract between China and the Russo-Chinese Bank which reads, "the company (Chinese Eastern Railway Company) will have the absolute and exclusive right of administration of its lands" [1] — a clause which the Chinese insist grants no such privilege. In the Portsmouth treaty, 1905, Russia and Japan reserved the right to maintain railway guards "not to exceed 15 men per kilometer," which would give Japan the right — so far as the Soviet Union is concerned — to keep in South Manchuria a total of about 15,000 men. China states that it did not give its assent to the particular provisions of the Russo-Japanese treaty regarding railway guards.[2] However, in the supplementary agreement between China and Japan, December 22, 1905, is the provision upon which Japan bases its right to maintain these troops:

> The Imperial Japanese Government, in the event of Russia agreeing to the withdrawal of her railway guards or in case that other proper measures are agreed to between China and Russia, consent to take similar steps accordingly. When tranquillity shall have been reestablished in Manchuria and China shall have become herself capable of affording full protection to the lives and property of foreigners, Japan will withdraw her railway guards simultaneously with Russia.[3]

China insists that she is now capable of affording the full protection demanded; Japan denies it and maintains the railway guards.[4]

[1] MacMurray, *op. cit.*, Vol. I, p. 76.

[2] *Ibid.*, Vol. I, p. 526.

[3] *Ibid.*, Vol. I, p. 551.

[4] Willoughby, *op. cit.*, Chap. XXXIII; *Conference on the Limitation of Armament*, p. 1004–1008, 1088–1100.

Railroad Controversies

Disputes over railroad expansion are the most important of the many concrete differences which disturb the relations of Japan and China in Manchuria.[1] The issue is whether Japanese are to participate with Chinese in building the new railroads or whether Chinese are to build all these lines independently. Japan is not attempting to extend the South Manchuria Railway; the difficulty relates entirely to new railroad development.

Japanese interests have had a large part in building new lines both to the east and the west of the main South Manchuria system. To the west they have shared in constructing new railroads which start from the South Manchuria main line at Ssupingkai, south of Changchun, and extend in a northwesterly direction via Chengchiatun and Taonan to Anganchi on the Chinese Eastern Railway.[2] These lines were built in three sections, at three different times and under various contracts with Japanese interests. To the east starting at Changchun two connecting roads now extend over 200 miles in the direction of the Korean border. The second section, from Kirin to Tunhua, was opened to traffic October 10, 1928.[3] In each case a Chinese company has the legal ownership of the railroad, but the extent of Japanese participation in these various enterprises has varied. In general, some Japanese interest — usually the South Manchuria Railway Company — has advanced the money, built the road on contract, obtained the privilege of being purchasing agent and, after the completed line has been handed over to the Chinese company, has retained loans secured on the road and also the right of appointing a number of Japanese officials on the railway staff. The Chinese are now operating all of these lines with the single exception of the

[1] For an authoritative Japanese account of the railroad situation in Manchuria, see South Manchuria Railway, *Report on Progress in Manchuria, 1907–1928.*

[2] A connecting line now extends north of the Chinese Eastern Railway to the important city of Tsitsihar.

[3] *Manchuria Daily News*, Monthly Supplement, November 1, 1928.

Changchun-Kirin section which in 1917 was turned over to the South Manchuria Railway Company to administer under contract for a period of 30 years.[1]

These new lines are a distinct advantage to the South Manchuria Railway Company as well as to other Japanese interests, for they open and help to develop large areas of the country. Since these roads have the standard gauge, narrower than the Russian Chinese Eastern but the same as the South Manchuria, they are direct feeders for the latter line. The new roads mean more freight for the South Manchuria system. Japanese participation in financing these undertakings brings the same general advantage which normally comes from taking part in the economic development of a new, rich country. Other foreign interests have coveted similar privileges in Manchuria in the past, especially British and American banking groups from 1905 to 1910.[2]

The Chinese are refusing, however, to continue this system of cooperation with the Japanese and are building a number of new lines of their own with Chinese capital and under Chinese management. For some years they have had a trunk line from Peking to Mukden which is entirely Chinese though financed in considerable part with British capital. Recently over 550 miles of new lines, exclusively Chinese, have been built. Other roads are under construction and many are projected. There has also been considerable discussion of developing a port at Hulutao on the Chinese Railway from Mukden to Tienstin in order to have a Chinese seaport with which to compete with the Japanese leased port of Dairen. Of the new lines, the one from Hulan to Hailun was completed and in operation December 15, 1928.[3] It promises to be the first part of an extensive railroad system in northern Manchuria, a section which offers great opportunities for development. Another line runs northeast from Mukden

[1] MacMurray, *op. cit.*, Vol. II, p. 1390–1394.
[2] Willoughby, *op. cit.*, Vol. I, Chap. VII.
[3] *Japan Weekly Chronicle*, January 24, 1929, p. 93.

via Hailungcheng to Kirin which is on the Japanese leased line from Changchun. This entire railway was opened to traffic May 12, 1929.[1] A third important Chinese line, opened in 1927, starts from Tahushan, west of Mukden on the Peking-Mukden Railway, and goes northwest to Payintala where it makes connection with other lines which go through to Anganchi on the Chinese Eastern Railway.

The Japanese claim that the Chinese are violating their treaty obligations in two respects: first, China is building certain lines contrary to treaty; second, China is refusing to construct other lines demanded by treaty. The Japanese Government has protested against the construction, exclusively by the Chinese, of the two roads from Tahushan to Payintala and from Hailungcheng to Kirin, on the ground that they violate Japanese rights stipulated in a protocol to the Sino-Japanese treaty of December 22, 1905, which reads:

> The Chinese Government engage, for the purpose of protecting the interest of the South Manchuria Railway, not to construct prior to the recovery by them of the said railway any main line in the neighborhood of and parallel to that railway or any branch line which might be prejudicial to the interest of the above-mentioned railway.[2]

The Japanese maintain that both these new Chinese lines run parallel to and compete with the South Manchuria Railway, and point out that the Tahushan-Payintala road makes it possible for freight between northwest Manchuria and Tientsin to be shipped on Chinese lines without touching the South Manchuria system. The Chinese, in answer, state that these lines are not "in the neighborhood" of the South Manchuria, since the Hailungcheng-Kirin road is distant from it some 80 miles in a bee-line, and the Tahushan-Payintala averages to be from about 60 to 150 miles distant.

[1] *Manchuria Daily News*, Monthly Supplement, June 1, 1929.

[2] MacMurray, *op. cit.*, Vol. I, p. 554; Kawakami, *op. cit.*, p. 383.

Japan also contends that China is under treaty obligation to permit Japanese financial participation in any railway built from Hailungcheng to Kirin, that this promise is contained in a "preliminary agreement for a loan for railways in Manchuria and Mongolia" signed September 28, 1918, Art. I of which reads: "The [Chinese] Government shall permit the [Japanese] banks to raise all the funds required for building" a specified number of railways in Manchuria including the line from Hailungcheng to Kirin.[1]

While the Japanese Government has repeatedly protested against the construction of these lines without Japanese consent,[2] some of the foremost Japanese state that they are not so much opposed to the new Chinese roads as they are to the violation by China of Japanese treaty rights. Mr. Matsuoka, the recent vice-president of the South Manchuria Railway Company, has said:

> The Japanese Government and the South Manchuria Railway, in dealing with the question of parallel railways, are concerned mainly with the principle that existing treaties and agreements so long as they are binding must be observed. Once this point is recognized, the question of constructing projected Chinese railways will be comparatively easy to settle.[3]

The Japanese wish to enjoy the right of financial participation in the roads as promised them by international agreement with China, and are especially anxious to share in the extension of the Changchun-Tunhua line from Tunhua to the Korean border where it would connect with a Japanese railroad running from Kainei to the seaport of Seishin. Such a line, giving a short, direct entrance to central Manchuria and opening a fertile region with abundant mineral resources, would be of great economic value as well as strategic significance to Japan. The Chinese Government, it is pointed out, promised in the agreement of September 4, 1909, to build this line, "upon

[1] MacMurray, *op. cit.*, Vol. II, p. 1448–1449.
[2] Kawakami, *op. cit.*, p. 385.
[3] *Ibid.*, p. 386.

consultation with the Government of Japan," and with the same measure of Japanese participation as in the Changchun-Kirin Railway.[1] Later, in 1918, the Chinese Government and the Japanese banks signed a preliminary agreement for a loan for the construction of this line and in accordance with the agreement the banks advanced to the Chinese Government $10,000,000.[2] Still more recently, the Japanese state, the Manchurian authorities have given verbal promises to carry out these agreements, but thus far they have not made the necessary final arrangements.[3]

The railroad issue is similar in many respects to other disputes between China and Japan in Manchuria. The Japanese rely upon treaties and other agreements made with China. The Chinese rely upon their moral right, as they view it, to check the Japanese and regain the concessions granted to them. It is all a part of the struggle between these two states over south Manchuria.[4]

The Proposed Morgan Loan

In this Sino-Japanese railroad issue the United States was nearly involved due to a proposed loan to the South Manchuria Railway Company from J. P. Morgan and Company which the Chinese vigorously opposed and which would need the tacit approval of the Department of State.

[1] MacMurray, *op. cit.*, Vol. I, p. 796.

[2] *Ibid.*, Vol. II, p. 1430–1432.

[3] See farewell address of President Yamamoto of the South Manchuria Railway Company, July 22, 1929, *Manchuria Daily News*, Monthly Supplement, August 1, 1929, p. 2.

[4] Foreign participation in railroad expansion in Manchuria is conditioned by the Consortium, signed in 1920 by American, British, French and Japanese banking groups, upon the support of their respective Governments. These groups promise to share with each other "on the principle of complete equality in every respect" all "loan agreements which involve the issue for subscription by the public of loans to the Chinese Government or to Chinese Government departments or to provinces of China or to companies or corporations owned or controlled by or on behalf of the Chinese Government," etc. The Consortium does not apply to loans where there is no public subscription, nor does it apply to several of the lines in central Manchuria including the two roads extending from Kirin. (Carnegie Endowment for International Peace, *The Consortium: The Official Text of the Four-Power Agreement for a Loan to China and Relevant Documents*, p. 62, 67–69; Malloy, *Treaties, Conventions*, etc., Vol. III, p. 3823.)

When it was announced in November, 1927, that Thomas W. Lamont, a member of the Morgan firm who was then in Japan, had practically completed negotiations for such a loan, vigorous opposition was at once raised by the Chinese. Mr. Yamamoto, the president of the South Manchuria Railway Company, stated that the loan which would amount to $30,000,000 (gold) would be used in part for the refunding of a higher-priced loan which would come due within a few months, and the remainder for additional rolling stock, heavier rails and the development of the company's collieries and fertilizer system.[1] The Chinese feared that the loan would be used for the extension of the Japanese railroad control in Manchuria, and believed that, above all else, its purpose was political, and that it would give American support to Japan's position in Manchuria. The Nanking Government protested to Washington; Dr. C. C. Wu, the minister for foreign affairs, cabled the following note to the Secretary of State:

Chinese people have heard with alarm the imminent flotation of South Manchuria Railway loan in America and apparent acquiescence of the American Government. It is well known to the world and to none better than the American Government that the railway is not a mere industrial enterprise but the symbol and instrument of alien domination over a large and rich portion of Chinese territory. Japan sought to prolong that domination by means of the notorious twenty-one demands.

If America, which repeatedly demonstrated its sympathy with China in connection with those demands, were now to lend means to strengthen that domination, Chinese people would be at a loss to understand the fundamental change of attitude on the part of the American Government. The Nationalist Government feels confident that the American Government will not permit consummation of this loan and depart from the traditional policy which has been instrumental in promoting cordial friendship between Chinese and American peoples.[2]

[1] *Week in China*, December 10, 1927, Vol. IX, p. 3–5.

[2] *United States Daily*, December 7, 1927, p. 2; *North China Herald*, December 10, 1927, p. 436.

General Yang Yu-ting, chief of staff to Marshal Chang Tso-lin who was then at the head of the Peking Government, stated that the

Chinese considered it most provocative to the Chinese Government and people. They had enough of Japanese materials and Japanese influence in Manchuria already without the loan. When the Chinese people realized that Japanese designs in Manchuria were being supported by American bankers it would bring the people in opposition to the American bankers and through them to the American people. [1]

Numerous other protests were made by various Chinese organizations.

The American Government was concerned, since at its request all proposals for foreign loans by American banking houses are regularly submitted to the Department of State for its indication "that there is or is not objection." The perplexing position of the Department was pointed out in an editorial in the *Japan Weekly Chronicle:*

It is difficult to see how the Department of State can now avoid the charge of taking sides: if it agrees to the loan there will be a great outcry in China that the United States is in partnership with Japan in the exploitation of Manchuria; if it disapproves of the loan there will be a feeling in Japan though probably not so much outcry . . . that the United States is taking the part of the Chinese agitators against Japan. [2]

The American bankers, however, did not complete their negotiations with the South Manchuria Railway Company and never presented any loan proposal to the department.[3]

[1] *Week in China*, December 3, 1927, Vol. IX, p. 3.

[2] *Ibid.*, December 15, 1927, p. 635.

[3] For earlier American interest in railroad development in Manchuria, see Hsü, Shuhsi, *China and her Political Entity*, p. 326–346; Kennan, George, *E. H. Harriman's Far Eastern Plans;* Willoughby, *op. cit.*, Vol. I, p. 169–186; Carnegie Endowment, *Manchuria; Treaties and Agreements*, p. 138–141.

Maintenance of Peace and Order

Japan's railroad and other interests in Manchuria have precipitated another issue with China, namely, Japan's alleged right to maintain peace and order throughout this region. Baron Tanaka's Government insisted that Japan possesses this right on account of its special interests in Manchuria. The Chinese deny this claim, and Japanese public opinion is divided regarding it.

Shortly after Baron Tanaka came into power he summoned the leading Japanese diplomatic and consular officials in China to a conference in Tokyo, at the close of which, July 7, 1927, he summarized its conclusions. One article of this summary reads:

> If the disturbances spread to Manchuria and Mongolia and, as a result, peace and order are disrupted, thereby menacing our special position and rights and interests in those regions, we must be determined to defend them, no matter whence the menace comes, and take proper steps without loss of time in order to preserve the regions as lands for peaceful habitation and development equally to Japanese and foreigners.[1]

A dramatic insistence upon this right occurred when it seemed possible that the Nationalist armies, after capturing Peking, might carry the civil war into the heart of Manchuria. In view of this situation, the Japanese Government, May 18, 1928, sent to the leading generals representing both Peking and Nanking a memorandum which said in part:

> The Japanese Government attach the utmost importance to the maintenance of peace and order in Manchuria, and are prepared to do all they can in order to prevent the occurrence of any such state of affairs as may disturb the peace and order or constitute a probable cause of such disturbance.
>
> In these circumstances, should the disturbances develop further in the direction of Peking and Tienstin and the situation become

[1] See Appendix.

so menacing as to threaten the peace and order of Manchuria, the Japanese Government, on their part, may possibly be constrained to take appropriate and effective steps for the maintenance of peace and order in Manchuria.[1]

At the same time Baron Tanaka sent a statement to the ambassadors of the leading powers in Tokyo and to the Chinese generals:

Should Manchuria and Mongolia come to be involved in the disturbance, the Imperial Government will prevent as far as possible defeated troops or those in pursuit of them, regardless of whether they are Southern or Northern troops, from entering the territory as such action is necessary for the protection of the special position of the Imperial Government in Manchuria and Mongolia.[2]

Both the Peking and Nanking Governments in reply protested against Japan's right to maintain peace and order in Manchuria. The Nanking note stated that such measures as Japan proposed

will not only constitute an interference with China's domestic affairs but also a flagrant violation of the principle of mutual respect for territorial sovereignty — a principle well established in international law. Such measures the Nationalist Government can never recognize.[3]

The withdrawal of Marshal Chang Tso-lin's forces into Manchuria without risking a battle for the possession of Peking obviated the necessity of any exceptional measures

[1] *Week in China*, May 19, 1928, Vol. XI, p. 10; *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1928, Vol. XII, p. 53.

[2] *Week in China*, May 19, 1928, Vol. XI, p. 11.

[3] *North China Herald*, June 2, 1928, p. 359; for the Peking note, see *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1928, Vol. XII, p. 52. Marshal Chang Tso-lin was killed near Mukden by a bomb which destroyed his railroad car just as it was passing under a bridge of the South Manchuria Railway. The tragedy embittered Sino-Japanese relations since the Chinese charged the Japanese with responsibility for the crime. It was also a leading factor in causing the overthrow of the Tanaka Government.

by Japan to maintain the peace of the region. After Marshal Chang Tso-lin's death, which actually occurred June 4, 1928, but according to official declaration, June 20, and after the succession of his son Chang Hsueh-liang to the position of headship in Manchuria, the question arose whether Manchuria should recognize the authority of the Nationalist Government at Nanking. The Japanese consul-general at Mukden, Mr. Hayashi, advised Chang Hsueh-liang, July 19, not to join with the Nationalists under existing circumstances but to adopt a policy of watchful waiting. This advice was seconded by Baron Hayashi, a distinguished Japanese diplomat. Later, Baron Tanaka stated that this advice although in accord with the views of the Japanese Government was an expression of personal opinion and not an official communication.[1] After some weeks, however, a compromise arrangement seems to have been worked out between the Chinese authorities in Manchuria and Nanking, by which the former would recognize the authority of the National Government but would be left in practical control of their own local affairs. To such an agreement Japan presented no objection and the National flag was formally raised in Mukden, December 26, 1928.[2]

The Manchurian policy of the Tanaka Government was severely criticized, however, not only by Chinese and many foreigners but also by some of the leading Japanese. Mr. Hanihara, recently ambassador at Washington, wrote that the idea that Japan is responsible for the peace of Manchuria "is certainly absurd. Japan has only the right to safeguard her rights and interests; the preservation of peace and order all over Manchuria is outside Japan's responsibility." [3] Baron Shidehara, now minister for foreign affairs, said:

[1] *Japan Weekly Chronicle*, August 9, 1928, p. 185; see also August 16, 1928, p. 216–218.

[2] *Week in China*, December 29, 1928, Vol. XII, p. 27–30; for a semi-official statement of the political status of Manchuria and its relations to the National Government at Nanking, see *ibid.*, March 2, 1929, Vol. XII, p. 155–157.

[3] *Ibid.*, May 11, 1929, Vol. XII, p. 355.

It is, of course, very desirable that the conditions in Manchuria and Mongolia should be so improved that all nationals can live in absolute security and peace, but it is certainly not for Japan to assume the task and responsibility for making them so.[1]

Foreign statesmen commented upon the developments in Manchuria. Sir Austen Chamberlain in the House of Commons, July 13, 1928, in reply to a question, said that Great Britain considered Manchuria a part of China and recognized no special Japanese interests in it except those specifically conferred by treaty and outlined by Baron Shidehara at the Washington Conference.[2] The American secretary of state, Mr. Kellogg, said to the press on May 31:

As far as the United States is concerned Manchuria is essentially Chinese soil.[3]

A solution of the conflicting claims of China and Japan in Manchuria is greatly to be desired in the interest not only of the two nations concerned but also of the political stability of the Far East. Some few suggestions of compromise have already been made. Dr. C. C. Wu states:

If relations between China and Japan are not adjusted to their mutual satisfaction, the peace of the world is not secure. If Japan's problem is economic, the solution should be economic, without importing into it political considerations. May not future statesmen find an answer to these vexed questions along economic lines?[4]

Mr. Zumoto, the Japanese spokesman at Williamstown in 1928, declared that Japan would be willing to withdraw all of its troops from the country as soon as China could provide adequate security. But these statements do not go very far. Manchuria still remains the most dangerous and the most difficult issue in Eastern Asia.

[1] *Week in China*, November 10, 1928, Vol. XII, p. 23.
[2] London *Times*, July 14, 1928, p. 13.
[3] *United States Daily*, May 22, 1928, p. 2.
[4] *Foreign Affairs*, July, 1928, p. 670.

IV. JAPAN'S FOREIGN RELATIONS

Relations with the Soviet Union

Although Japan's vital issues in its foreign affairs relate to China and especially to the region of Manchuria, it has important problems with other Pacific countries, particularly with the Soviet Union, the United States and Australia.

Friendship toward Russia in matters of trade and commerce, and hostility toward communism, the basic principle of the Soviet state, are the dual aims often proclaimed by Japanese statesmen. The treaty which forms the legal basis for the present relations of the two countries was signed January 20, 1925. By it Japan recognized the Soviet Government and promised to withdraw its troops from Northern Saghalien — a pledge properly fulfilled. The Soviet Union recognized the validity of the treaty of Portsmouth of 1905 and thereby Japan's special position in South Manchuria, but it was agreed that all other treaties between the two states signed before 1917 should be reconsidered at a subsequent conference. The Soviet Government also promised to give Japan very extensive privileges in Northern Saghalien for the exploitation of oil and coal, and added that it was "willing to grant to Japanese subjects, companies and associations concessions for the exploitation of minerals, forests and other natural resources in all the territories of the Union of Soviet Socialist Republics." The question of the debts due from the former Russian Government was to be adjusted at subsequent negotiations but it was stipulated that Japan should enjoy as favorable terms as any other country. As to propaganda, a mutual pledge was given limited to official or semi-official acts. Each power promised

to refrain and restrain all persons in any governmental service for them, and all organizations in receipt of any financial assistance

from them, from any act overt or covert liable in any way whatever to endanger the order and security in any part of the territories of Japan or the Union of Soviet Socialist Republics.[1]

The promised concessions for oil and coal in northern Saghalien were formally granted December 14, 1925,[2] and about a year later a timber concession covering 2,250,000 acres in the maritime province of eastern Siberia. A convention regulating the right of Japanese to fish in Soviet waters in eastern Asia was signed at Moscow, January 23, 1928, and ratified at Tokyo, May 22 of the same year.[3] These economic privileges, important though they are, do not appear as yet to bring the financial return expected from the convention of 1925.[4]

Fear of Russian communism, however, is particularly strong in the government circles of Japan, with occasional results that cannot increase the cordiality of the relations between the two countries. A few months after the new treaty of 1925 went into effect, a Soviet labor delegation of 50 Russians came to Japan to confer with the Japanese, but they were so closely watched by the police that they could neither make speeches nor hold conferences and shortly returned home.[5] In 1928, March 15, over 1,000 alleged communists were arrested in Japan and a widespread communist plot suspected by the police. It was at once charged that Soviet nationals had instigated and assisted these Japanese communists. In fact, the home minister in Tokyo stated that some of the Japanese leaders had been to Moscow for instruction and that it was suspected that the Soviets had also given financial help.[6]

The Japanese Government, and apparently a considerable majority of the Japanese people, look forward to con-

[1] League of Nations, *Treaty Series*, Vol. XXXIV, p. 32–42; *China Year Book, 1925*, p. 788–793.

[2] Toynbee, *op. cit.*, 1926, p. 503.

[3] League of Nations, *Treaty Series*, Vol. LXXX, p. 341.

[4] *Pacific Affairs*, May, 1929, p. 286–287.

[5] *New York Times*, September 26, 1925.

[6] *Japan Weekly Chronicle*, April 26, 1928, p. 501; see also *ibid.*, April 19, *1928*, 452–454, 461–465; *New York Times*, April 11, 1928.

tinuing friendly relations with the Soviet Union and to enjoying the benefits of economic cooperation. In the fall of 1927 an economic mission went to the Soviet Union, headed by F. Kuhara, a leading business man, accompanied by Hiroshi Saito, the able consul-general at New York. A little later Viscount Goto, one of the distinguished statesmen of Japan, made a visit to Moscow, which attracted much attention and evidently made a favorable impression. But a section of Japanese opinion believes that the factors which make for friction between the two countries are stronger than those which make for friendship. This divergence in opinion is shown even in the official utterances of the Japanese leaders. Baron Shidehara, when minister for foreign affairs, in an address before the Imperial Diet, January 18, 1926, said as to the Soviet Union:

> Within the two years which have elapsed since the signing of the convention of Peking, the mutual relations of the two countries have been steadily gaining in strength and they give great promise for the future. There are certain sections of people who seem to indulge in an alarming speculation, as if the interests of Japan and the Soviet Union were destined to clash in Manchuria. . . . I have thought it fitting to add these remarks, in view of the unjustifiable pessimism that has from time to time been expressed in certain quarters on the future of our relations with the Soviet Union.[1]

Baron Tanaka, when prime minister, stated, April 22, 1927:

> In the matter of communist activity in China, Japan can hardly remain indifferent as she is vitally concerned with the preservation of peace in the Orient generally and is so placed as to be directly and most deeply affected by the results of such activity. . . . I am confident that this stand which we take will be well understood by our friendly neighbor Russia.[2]

[1] Toynbee, *op. cit.*, 1926, p. 508–509.
[2] Condliffe (ed.), *op. cit.*, p. 284.

Relations with America

Japan and America are bound together by many ties both of old friendship and of modern trade and finance. The former friction between them arising from differences over Chinese relations, which appeared intermittently from the close of the Russo-Japanese War until the Washington Conference, appears happily to be past. There is, however, one outstanding issue between these nations: the exclusion provision of the American immigration act of 1924.[1] The Japanese Government and people are not reconciled to it and refuse to regard the matter as a closed incident. The Japanese minister for foreign affairs, Baron Shidehara, stated in the Diet in January, 1926, regarding "the so-called Japanese exclusion clause:"

> I only desire to make it clear that we remain unchanged in our feelings of deep regret at that particular clause which seems to us irreconcilable with the rules of international comity and justice.[2]

Similar statements have been made each succeeding year by the Japanese secretary for foreign affairs in his annual address before the Imperial Diet.[3] In 1929, January 22, Baron Tanaka said:

> It is a source of congratulation that the bond of friendship, economic and political, with the United States is being more than ever strengthened. Only I wish to add that the matter of the immigration law which has been pending for the past few years has not yet been composed. A satisfactory solution of a problem like this must after all depend upon the mutual good understanding which, I am confident, is growing year after year.[4]

This official attitude expresses with moderation the feeling which is held deeply and strongly by the Japanese

[1] For the act of 1924 and a short history of the immigration issue, see Buell, R. L., *Japanese Immigration.*

[2] Toynbee, *op. cit.*, 1926, p. 504.

[3] For Baron Shidehara's statement, 1927, see *ibid.*, p. 510; for Baron Tanaka's statement, January 21, 1928, see *Japan Weekly Chronicle*, January 26, 1928, p. 101.

[4] *Japan Weekly Chronicle*, January 31, 1929, p. 118.

people as a whole. The writer remembers vividly a dinner discussion with the members of the Japanese-American Relations Committee in Tokyo in the last days of 1927. The president of the committee, Viscount Shibusawa, often called the "Grand Old Man of Japan," spoke of his life-long friendship for America, from the days when Commodore Perry opened Japan, which he remembered as a boy, down to 1924 when, he said with feeling, "America put this insult upon us." This phrase expressed the attitude of this group of distinguished Japanese, all of whom regarded themselves as friends of the United States. Any solution would be satisfactory to them which removed the national humiliation, as they regard it, of discrimination.

American opinion is as clearly divided regarding this issue as Japanese opinion is united. The present situation and its difficulties may well be judged from certain sections of a joint resolution introduced into the California state Senate, February 27, 1929, and subsequently passed by both houses of the Legislature:

Whereas, In 1924, after full investigation and consideration, Congress by general law prohibited the immigration of aliens ineligible to citizenship; and

Whereas, Various organizations have since the passage of said act persistently sought to influence Congress to recede from such policy, and the adherence to said policy has been urged by the American Legion, American Federation of Labor, the Grange and the Native Sons of the Golden West, the first three of which organizations have repeatedly in their annual conventions by resolutions expressed their continued support of the congressional action; and

Whereas, There is now in progress a nation-wide campaign designed to substitute the quota system for the rigid and effective exclusion of Asiatic laborers as provided in the General Immigration Act of 1924; now therefore, be it

Resolved, By the Senate and Assembly of the State of California, jointly, That the Legislature of this state protests against any character of action designed to modify the present immigration laws relating to the exclusion of Asiatic laborers and reaffirms its belief that the privilege of American citizenship should con-

tinue to be restricted as at present, and that the privilege of immigration should be extended only to those people who may become citizens of the United States. . . .[1]

Immigration Exclusion

The United States, however, is not the only country in the Pacific to exclude Japanese laborers; all the British Dominions take the same action though by different methods. Toward this exclusion the Japanese attitude is twofold: first, resentment against any discrimination based on national or racial grounds, and, second, also a sense of moral wrong that Japanese should be debarred from great areas which are relatively undeveloped. Japanese statesmen frequently declare, as did Baron Shidehara before the Diet in 1926, that "it is not our policy to send emigrants to any country in which they are not welcomed."[2] Yet there is regret that they are not welcomed. This view was presented strikingly by some of the Japanese spokesmen at the Honolulu conference of the Institute of Pacific Relations in 1927. The chairman of the Japanese group, Dr. Sawayanagi, said:

> Japan is to-day facing a series of acute problems, of which the greatest is undoubtedly the problem of population and food supply. . . .
>
> As we look over the world situation from this angle, . . . it is only in the Pacific countries, especially in Australia and North and South America, that there are vast territories, still undeveloped and sparsely settled. And in almost all these countries Japan faces the stone wall of exclusion. . . .
>
> The only satisfactory method of solving the problem of immigration is, not through discriminatory legislation, but through the recognition by the nations bordering on the Pacific Ocean, of the natural right of immigration. . . . I believe that the natural right of all humankind to share the resources of the world on some equitable basis and to enjoy the freedom of movement and residence will be recognized by the thinking leaders of all progressive lands. This recognition will come, however, not simply

[1] (California) Senate Joint Resolution, 1929, No. 6.

[2] Toynbee, *op. cit.*, 1926, p. 504.

as a desire to relieve the pressure of population, but as a result of unreserved acceptance of justice and fair play as fundamental principles of international and interracial relations.[1]

Professor Nasu of the Imperial University of Tokyo expressed the same view:

Japan feels herself to be bottled up in a tiny island of the Far East. Other nations more favored than she can increase freely, raising the standard of living at the same time. . . .

Ought a nation [Japan] which obviously has a high degree of culture, and whose people are industrious and peace-loving, be denied the peaceful migration of her surplus population to regions where there are vast tracts of undeveloped land? . . . Is it moral for a nation with a vast and undeveloped territory to refuse the entrance of other people simply in order that it may preserve its standard of living, regardless of the fact that such an action will have a serious effect on others?

[1] Condliffe (ed.), *op. cit.*, p. 31–32.

V. THE BRITISH DOMINIONS

The policy of the British Pacific Dominions which is most important in its effect upon other countries is that of the strict limitation or the total exclusion of all Asiatic laborers from their territories. Each of the Dominions, Australia, Canada and New Zealand, uses a different method of realizing this policy.[1]

Canada's immigration act of 1910–1924 empowers the governor in council to prohibit the entrance into Canada "of immigrants belonging to any specified class or nationality" for several named reasons, including their inability "to become readily assimilated and to assume the duties and responsibilities of Canadian citizens within a reasonable time after their entry." [2] Under the authority of this act orders in council strictly regulate and limit the number of Asiatic immigrants. Chinese, except the usual exempted classes, are denied entrance by a special act. Japanese laborers, however, are still admitted under a Gentlemen's Agreement, first made in 1908, which now restricts the number of Japanese immigrants in any one year to 150.

New Zealand restricts Oriental immigration under the authority of the act of 1920 which provides "that no person other than a person of British birth and parentage shall . . . enter into New Zealand unless he is in possession of a permit to enter." [3] The granting of the permit remains as an administrative matter in the hands of the New Zealand officials.

[1] "Legislative Aspects of Asiatic Migration," prepared by the International Labor Office, Condliffe (ed.), *op. cit.*, p. 454–460; see also Wilson, G. G., and Wynne, E. C., *Immigration Laws; Australia, Canada, New Zealand, Japan*, Institute of Pacific Relations, 1927.

[2] *Ibid.*, p. 455. This provision is found in Art. 38*c* of the Canadian immigration act of May 4, 1910, as amended by the act of June 6, 1919. (*Statutes of Canada*, 1910, 9–10 Edward VII, Vol. I, Chap. 27, p. 205 *ff.*: *ibid.*, 1919, 9–10 George V, Vol. I, Chap. 25, p. 91 *ff.*)

[3] Art. 5 of Act to amend the immigration restriction act, 1908, November 9, 1920. (*New Zealand Statutes*, II. George V, 1920, p. 78 *ff.*)

Australia

It is the Australian immigration legislation, however, which has particularly attracted the attention of other countries.[1] The "white Australia policy" is enforced by the well-known dictation test; that is, the would-be immigrant must write down from the dictation of an immigration officer at least 50 words in a prescribed language. This is not a test of literacy but a method of exclusion. It is not intended that the test shall ever be passed; the officials may administer it as they wish. It was instituted and has been maintained to exclude Asiatic immigrants. But the immigration act is believed to have the advantage that in its wording it does not discriminate against any race or nation. In fact, it is sometimes used to exclude undesirable Europeans. The discrimination lies entirely in the method of the enforcement of the act. A series of Gentlemen's Agreements, moreover, tempers the apparent severity of the act, for these provide that students, merchants and tourists from Japan, China, India and a number of additional countries shall be admitted without the necessity of submitting to the dictation test.

An important development, however, took place in the Australian immigration policy in 1924 and 1925. Due to an unusually large influx from southern Europe, especially from Italy, it came to be felt in Australia that the number of immigrants from this region must also be limited. The idea developed, in the popular mind, that Italians are not "white" in the Australian sense. An Italian consul in one of the Australian cities remarked to the writer in 1927, "I suppose you have discovered that we Italians are not white."

To meet this new situation additional Gentlemen's Agreements were made with Albania, Greece, Malta, the Serb-Croat-Slovene State and other south European coun-

[1] The immigration act, 1901–1925. (*Australia, Commonwealth Acts*, 1925, Vol. XXIII, p. 87 *ff.*) See Wilson, G. G., and Wynne, E. C., *op. cit.*, p. 1–16; "Legislative Aspects of Asiatic Migration," Condliffe (ed.), *op. cit.*, p. 454; Charteris, A. H., "Austrian Immigration Laws and their Working," Condliffe (ed.), *op. cit.*, p. 483–488.

tries by which their emigrants to Australia should be limited to a small and prescribed number monthly. The Italian Government of its own volition, it states, enforced such conditions upon emigration to Australia that the number of Italians entering the country has been sharply reduced. In view of these restrictions placed upon certain European countries, it is maintained by some Australians that the term "white Australia policy" is no longer applicable. In 1925, moreover, a commonwealth immigration act was passed, similar to the one in Canada, which authorizes the governor general to prohibit the immigration into the commonwealth "of aliens of any specified nationality, race, class or occupation . . . (*c*) because they are deemed unlikely to become readily assimilated. . . ." The powers thus granted have not so far been exercised, but the act gives legal sanction for racial or national discrimination.

The "white Australia policy" in its international aspect has caused a measure of resentment among well-informed Japanese, and in Australia a widespread, latent fear of Japan. The Japanese who know of the Australian immigration regulations regard them as an expression of a "dog-in-the-manger" policy, since the 6,000,000 or 7,000,000 Australians, they claim, can not occupy the entire island continent and will not let others do so. A leading Japanese daily comments:

> Is not the principle of white Australia contrary to the spirit of justice, liberty and universal brotherhood? We wonder if the justice and liberty as understood by some Britons is confined to the Anglo-Saxon race and does not mean justice and liberty for all mankind.[1]

The Japanese, however, are not nearly so much concerned over white Australia legislation as over American exclusion, since the Australian laws are not openly discriminatory, and, even more important, since the Japanese

[1] Hochi, quoted in *The Japan Times Weekly*, June 3, 1922, p. 570.

in general are relatively little interested in what takes place in the British Dominions south of the equator.

In Australia a fear of Japan has at times been marked and has been publicly expressed by such men as the recent commonwealth prime minister, William M. Hughes. At present, doubtless a majority of well-informed Australians have ceased to regard Japan as a military danger, but a latent suspicion of that country is widely held among the masses and is a factor in the international situation in the Pacific.[1]

[1] An excellent and authoritative summary of the situation is given by Piesse, E. L., "Japan and Australia," *Foreign Affairs*, April, 1926, Vol. IV, p. 475–488; see also "The White Australia Policy," *Foreign Affairs*, October, 1925, p. 97–111; Roberts, S. H., "Australian View of Pacific Relations," *Institute of Pacific Relations, Proceedings, etc.*, 1925, p. 63–65. The standard history of the subject is, Willard, Myra, *History of the White Australia Policy*.

VI. AGREEMENTS FOR PRESERVING PEACE IN THE PACIFIC

Limitation of Fortifications and Naval Bases

A number of treaties and conventions are in force which aim to remove causes of friction, settle international disputes and in general preserve the peace of the Pacific.

First of these should be mentioned a series of agreements which prevent the further fortification of many of the islands of the Pacific Ocean. By Art. XIX of the treaty limiting naval armament signed at the Washington Conference, Great Britain, Japan and the United States agreed that until at least December 31, 1936, they would neither strengthen their fortifications or naval bases, nor build new ones on a designated list of their Pacific islands. The American islands included under this nonfortification agreement are the Philippines, Guam and the Aleutian Islands — but not Hawaii. The Japanese islands concerned are the outlying possessions: the Kuriles, Bonins, Amami-Oshima, the Loochoos, Formosa and the Pescadores. Hong Kong and a number of the smaller British islands complete the list. Although this agreement has been severely criticized by American naval officers because it surrendered for a term of years the right to fortify adequately Guam and the Philippines, it seemed a wise provision to the members of the American delegation at the Washington Conference. It maintains the *status quo* in regard to fortifications and naval bases throughout much of the Pacific and prevents competition in this form of naval armament just as the agreement on naval vessels prevents competition in the number or size of capital ships.[1]

Further agreements provide that the islands in the Pacific which are administered as mandates by Australia,

[1] *Conference on the Limitation of Armament*, p. 1581–1582. The provision went into force August 17, 1923.

the British Empire, Japan and New Zealand must also remain unfortified. The original grant, or mandate, states, "no military or naval bases shall be established or fortifications erected in the territory." [1] So far as the Japanese mandated islands are concerned, that is, the Carolines, Marshalls and Mariannas, the pledge that they shall not be fortified was repeated by Japan in the treaty with the United States, signed February 11, 1922.[2]

Four Power Pact

A special agreement regarding their islands in the Pacific was signed at the Washington Conference by France, Great Britain, Japan and the United States. By the Four Power Pact, as it is usually termed, these powers promised to respect each other's rights "in relation to their insular possessions and insular dominions in the region of the Pacific Ocean;" to refer any controversy "arising out of any Pacific question and involving their said rights which is not satisfactorily settled by diplomacy" to a conference of the four powers "for consideration and adjustment;" and, in case "the said rights are threatened by the aggressive action of any other power," to "communicate with one another fully and frankly in order to arrive at an understanding as to the most efficient measures to be taken, jointly or separately, to meet the exigencies of the particular situation." It was provided that upon the deposit of ratifications of the treaty the Anglo-Japanese Alliance should terminate.[3] The treaty included the mandated islands in the Pacific but did not thereby give the assent of the United States to the mandates. By a separate treaty with Japan the United States has recognized the validity of the Japanese mandate; but it has not as yet

[1] League of Nations, *Official Journal*, Vol. II, No. 1, p. 85 *ff.*, gives the provision for the Japanese Mandate. The others are identical. The mandates are also separately published by the League of Nations as documents 21/31/14a — 21/31/14b — 21/31/14c — 21/31/14e.

[2] Malloy, *op. cit.*, Vol. III, p. 2724. The cable island Yap, the subject of dispute between the United States and Japan, 1921–1922, is in the West Caroline group.

[3] *Conference on the Limitation of Armanent*, p. 1614–1615: Malloy, *op. cit.*, Vol. III p. 3094–3096. Ratifications were deposited at Washington, August 17, 1923.

signed treaties recognizing the Pacific Ocean mandates of Australia, New Zealand or the British Empire. In its application to Japan, the treaty includes only Karafuto (the southern portion of the island of Saghalien), Formosa and the Pescadores, and the Japanese mandated territories. Domestic questions are excluded from the scope of the pact.[1]

So much apprehension was felt by some Americans regarding the possible implications of this treaty that the United States Senate ratified it subject to the following reservation:

> The United States understands that under the statement in the preamble or under the terms of this treaty there is no commitment to armed force, no alliance, no obligation to join in any defense.[2]

On the other hand, it is believed by many that the Four Power Pact was a painless method of terminating the Anglo-Japanese Alliance and that otherwise it has slight significance. The terms of the treaty make it clear that it is strictly limited in its scope to islands in the Pacific Ocean and does not apply to China or the mainland of Japan. It is therefore of interest to note that Mr. Stimson, the secretary of state, is said to have called to the attention of the other signatories of the pact the danger arising from the Sino-Russian issue in Manchuria.[3] It might be proper to comment that fully as much depends upon the spirit which actuates states as upon the exact wording of treaties which bind them.

Nine Power Treaty regarding China

As for China, the Pacific powers signed a nine power treaty, at the Washington Conference, "relating to principles and policies concerning China," which aimed in part

[1] *Conference on the Limitation of Armament*, p. 1617–1620: Malloy, *op. cit.*, Vol. III, p. 3096–3099.

[2] Malloy, *op. cit.*, Vol. III, p. 3096.

[3] *New York Times*, July 20, 1929.

"to safeguard the rights and interests of China;" and in which they promised "to respect the sovereignty, the independence and the territorial and administrative integrity of China;" and, further, agreed that

whenever a situation arises which in the opinion of any one of them involves the application of the stipulations of the present treaty and renders desirable discussion of such application, there shall be full and frank communication between the contracting powers.[1]

Any violation, therefore, of the sovereignty or integrity of China is not only contrary to treaty, but, upon the desire of any one of the contracting states, calls for a frank discussion of the situation by the Pacific powers.

Pact of Paris

The treaty for the renunciation of war signed at Paris August 27, 1928, entered into full force on July 24, 1929, throughout the Pacific and the Far East as well as elsewhere. All the Pacific powers represented at the Washington Conference, including the British Dominions in the Pacific, and, in addition, the Union of Socialist Soviet Republics, as parties to it, declare "that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relation with one another," and "agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means."[2] Although this Pact of Paris provides no machinery of any kind for its enforcement, its possible effectiveness as an instrument for maintaining peace was clearly revealed by the success of Secretary Stimson's reminder to both Russia and China on July 19 that they were under pledge to settle their disputes over the Chinese Eastern Railway by other means than war.[3]

[1] *Conference on the Limitation of Armament*, p. 1621–1627.

[2] For the text of the treaty, see Appendix.

[3] *New York Times*, July 20, 1929.

League of Nations

The League of Nations may, upon occasion, prove a useful agency for maintaining peace in this area as well as elsewhere. Whenever a serious international difficulty arises in the Pacific or the Far East, there are many who suggest that the League be called upon for assistance. It has an excellent organization, a secretariat skilled in dealing with international disputes and a council which has proved its ability to solve many perplexing European tangles. Of the nine Washington Conference powers, eight are Members of the League, and as such have pledged themselves to submit their international issues to judicial settlement, arbitration or conciliation, and to join with other Member states in helping to maintain world peace. But of the five most important Pacific states, two, the United States and the Soviet Union, are not Members of the League. Up to the present time, the League has taken practically no part in settling the problems of the Far East and the Pacific.[1] These problems have been dealt with, and in part settled, at international conferences attended by the Pacific powers, such as the Washington Conference, 1921–1922, or by direct consultation between these powers.[2]

As to the Permanent Court of International Justice, all of the nine Washington Conference powers except the United States have signed the protocol of the Court and have thus accepted its jurisdiction. But they have not thereby pledged themselves to submit their disputes to the Court; such a pledge is given only by those states which have signed the so-called "optional clause" requiring them to refer to the decision of the Court certain classes of legal issues. Five of the Washington Conference powers, Belgium, China,[3] France, Netherlands and Portu-

[1] The deputy secretary general paid a first official visit to the Far East in 1928–1929.

[2] For the present membership of the League, and a survey of its activities, see Myers, D. P., *Nine Years of the League of Nations*, 1920–1928.

[3] The Chinese declaration of acceptance has not been formally renewed following the expiration of its specified five-year term on May 13, 1927. At that time the Belgo-Chinese case was pending.

gal, have signed this optional clause; but Great Britain,[1] Japan, the Soviet Union and the United States have not done so.[2]

Bipartite Treaties for Promotion of Peace

There are a number of bipartite treaties for the promotion of peace between the various Pacific countries. The United States has treaties of the Bryan type originally signed in 1913 and 1914 now in force with all of the Washington Conference powers except Belgium (with which one is signed) and Japan (with which negotiations are pending); and, in addition, with Russia.[3] The contracting states agree that all disputes arising between them,

> of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the high contracting parties do not have recourse to arbitration, be submitted for investigation and report to a permanent international commission . . . [and they] agree not to resort, with respect to each other, to any act of force during the investigation to be made by the commission and before its report is handed in.[4]

Of the Root treaties signed in 1908–1909 only the one with the Netherlands is still binding. This provides that "differences which may arise of a legal nature" should be referred to the Permanent Court of Arbitration at the Hague, "provided, nevertheless, that they do not affect the vital interests, the independence or the honor of the two contracting states and do not concern the interests of third parties."[5]

A new series of Kellogg treaties has recently been negotiated, similar in scope and character to the Root treaties,

[1] The present labor Government has expressed its intention to accept the optional clause in conjunction with the British Dominions.

[2] See Hudson, Manley O., *The World Court, 1922–1929*, p. 102–110.

[3] The treaty is in force but no effort has been made to render it applicable to the successor state, the Soviet Union, by completing the appointment of commissioners under it.

[4] Malloy, *Treaties, Conventions, etc.*, Vol. III, p. 2515, gives the wording of the treaty with China.

[5] *Ibid.*, Vol. II, p. 1277.

which provide that "all differences relating to international matters . . . which are justiciable in their nature" shall be referred to arbitration provided they do not concern domestic issues, the interests of third parties, the Monroe Doctrine or the obligations of the League of Nations.[1] Of this new type of arbitration treaty, the United States has in force one with France, and has signed others with Belgium, Italy and Portugal. Negotiations were recently in progress for the conclusion of similar treaties with China, Japan and the Netherlands. But as late as July 31, 1929, the United States had no treaty of arbitration or conciliation with Japan.[2]

Of the other leading states of the Pacific, the British Empire, China, Japan and the Soviet Union, not one has in force a bilateral treaty of arbitration or conciliation with any other state of this group.

The Ninth Assembly of the League of Nations on September 26, 1928, adopted unanimously the General Act for the pacific settlement of international disputes, an action which embodied the assent of all countries interested in the Pacific with the exception of the United States and the Soviet Union. This General Act is intended to be a standard form of agreement respecting the scope and procedure of conciliation, judicial settlement and arbitration; and is open to accession by all states. Of the Washington Conference powers, Belgium has acceded to it, and the French Government on August 1 was awaiting parliamentary authorization to do so.[3] The MacDonald Government in Great Britain has pronounced itself in favor of accession.[4] But as yet it is in force for none of the leading Pacific states.

[1] For the wording of the American-French treaty, see *American Journa :of International Law*, Supplement, April, 1928, Vol. XXII, p. 38.

[2] See Department of State, Treaty Division, *Bulletin of Treaty Information*, No. 4, June, 1929, "A List of the Treaties of the United States for the Promotion of Peace," in force June 30, 1929; also *Ibid.*, No. 5, July, 1929; for a good summary of these Kellogg treaties, see *American Journal of International Law*, July, 1929, Vol. XXIII, p. 595–602.

[3] See memorandum of March 16, 1929, Myers, D. P., *Origin and Conclusion of the Paris Pact*, p. 29.

[4] See the debate on the King's Speech opening Parliament, July 5, 1929, *ff.*

Suggestions for Additional Treaties

The relatively small number of international agreements for the promotion of peace throughout the Pacific area seemed to many members of the Honolulu conference in 1927, to be a marked defect in the international organization of this region. The situation to-day is much improved, since the Pact of Paris is now in effect for all the Pacific states, and the new Kellogg arbitration treaties are being negotiated and signed. For the further betterment of the treaty structure of the Pacific, it has frequently been suggested that the Four Power Pact of the Washington Conference should be extended so that it would include not merely the islands of the Pacific but all countries of this region, especially China. The especial advantage of this suggested extension, it is claimed, would be the assurance that every international dispute in the Pacific which could not be settled by diplomacy would be referred to a joint conference of the Pacific powers "for consideration and adjustment."

APPENDIX

I. CHINA AND FOREIGN POWERS

1. Declaration by the Nationalist Government, June 16, 1928 [1]

Now that unification of China is being accomplished the Nationalist Government of the Republic of China has the honor to make to the friendly nations of the world the following declaration.

The revolution led by the Nationalist Government has as its primary object the building up of a new state. As the military period of the revolution is closing, the Nationalist Government is now engaged in the work of rehabilitation and reconstruction so that the new state may soon be realized.

What we mean by the new state is putting into effect the "three principles" laid down by our late chief, Dr. Sun Yat-sen, so that we may gain for our people the blessing of liberty and freedom and for China international peace on a basis of equality. We will naturally discard any militaristic form of government which has been the practice of the past and we will not tolerate any person aiming at the destruction of modern social institutions such as the Communists.

To realize its hope of a new state the Nationalist Government must put its international relations on a new basis. For 80 years China has been under the shackles of unequal treaties. These restrictions are a contravention of the principle in international law of mutual respect and sovereignty, and are not allowed by any sovereign state. Hence China has asked in various declarations for a sympathetic understanding by friendly nations. We are pleased to note that since the latter part of 1926 the spokesmen of the foreign powers have expressed their willingness to negotiate new equal treaties. Now that the unification of China is being consummated we think the time is ripe for taking further steps and begin at once to negotiate — in accordance with diplomatic procedure — new treaties on a basis of complete equality and mutual respect for each other's sovereignty.

The Nationalist Government firmly believes that when this is accomplished the friendly relations between China and the other powers and goodwill among the peoples and China's international trade and other facilities for transportation will ever increase and

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, July 1928, Vol. XIII, No. 3, p. 47–48.

even better protection will be afforded the lives and property of foreigners in China.

The Nationalist Government wishes to make to the friendly powers a further declaration that it will not disregard, nor has it disregarded, any international responsibility in consequence of agreements and understandings properly and legally concluded and on a basis of equality. When the treaty restrictions are removed the mutual assistance, morally as well as materially, that may be rendered between China and the other powers will no doubt enhance the progress of civilization of the world.

With profound sincerity the Nationalist Government in the name of the people of all China makes the foregoing declarations to the whole world and hopes that all friendly nations will accord their fullest sympathetic understanding to its program of a new state as a step toward the attainment of ideal mutual help for the glory of mankind and for the permanent peace of the world.

Nanking, June 16, 1928.

2. Declaration by the Ministry of Foreign Affairs of the Nationalist Government, July 8, 1928 [1]

The Nationalist Government, with a view to adapting themselves to present-day circumstances and with the object of promoting the welfare of, and friendly relations between, China and the different countries, have always considered the abrogation of all the unequal treaties, and the conclusion of new treaties on the basis of equality and mutual respect for territorial sovereignty as the most pressing problem of the present time.

These aims have been embodied in declarations repeatedly made by the Nationalist Government.

Now that the unification of China is an accomplished fact, it is the task of the Nationalist Government to make every effort fully to realize these aims.

While they will continue to afford protection to foreign lives and property in China according to law, the Nationalist Government hereby make the following declaration with regard to all unequal treaties:

(1) All unequal treaties between the Republic of China and other countries which have already expired shall *ipso facto* be abrogated and new treaties shall be concluded.

(2) The Nationalist Government will immediately take steps to terminate, in accordance with proper procedure, those unequal treaties which have not yet expired, and conclude new treaties.

(3) In [the] case [of] the old treaties which have already expired

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, July, 1928, Vol. XIII, No. 3, p. 48–49.

but have not yet been replaced by new treaties, the Nationalist Government will promulgate appropriate interim regulations to meet the exigencies of such a situation.

Nanking, July 8, 1928.

INTERIM REGULATIONS

(1) Foreign countries and foreigners referred to in these regulations mean those countries whose treaties with China have expired, but which have not yet concluded new ones.
(2) Diplomatic and consular officials of foreign countries in China shall be accorded all the privileges and immunities conferred on them by international law.
(3) Foreign life and property in China shall be entitled to the protection of Chinese law.
(4) Foreigners shall be subject to the jurisdiction of Chinese courts and governed by Chinese law.
(5) Pending the application of the Chinese national tariff law, the existing customs regulations shall be applied to foreign imports into China and foreign exports out of the country.
(6) Foreign residents in China shall pay taxes where Chinese themselves are required to pay them.
(7) All matters which are not regulated by these provisions shall be settled in accordance with international law and Chinese law.

Nanking, July 8, 1928.

3. Resolution Passed by the Third National Congress of the Kuomintang with Regard to China's Foreign Relations, March 15-28, 1929[1]

[Semi-official translation]

The Third National Congress, after hearing the report on China's foreign relations, is aware of the fact that the principle of equality and reciprocity laid down by the Kuomintang for dealing with China's foreign relations has recently been accepted by the powers. The initial move toward tariff autonomy has also been crowned with success. These achievements are the result of solidarity and united action of the Chinese people under the guardianship of the Kuomintang, whose aim it is to see the enforcement of the Three Peoples' Principles in this country. However, the Congress regards the present diplomatic achievements as only the first step toward full realization of the party's foreign policy.

At the First National Congress of the Kuomintang, resolutions were adopted to the effect that the abrogation of unequal treaties and the

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, April, 1929, Vol. XIII, No. 2, p. 54–57.

conclusion of new treaties on the basis of absolute equality and reciprocity be laid down as the basic principle of China's foreign policy.

With the ushering in of the political tutelage period, the time has come for the enforcement of the program laid down by our late leader, Dr. Sun.

The resolutions of the First National Congress outlining China's foreign policy, containing altogether seven articles, may be summarized as follows:

1. All existing unequal treaties between China and foreign powers shall be abrogated and new treaties shall be concluded on the basis of equality and reciprocity.

2. All future treaties concluded between China and foreign powers shall be made in such a way as not to encroach upon the sovereign rights of the contracting parties.

3. China's foreign loans shall be reconsolidated and only such foreign loans as are not injurious to China's political and economic interests shall be given recognition.

These three points form not only the guiding principles for the abrogation of existing unequal treaties, but also the very road leading to China's new international status of equality and freedom.

China, after being kept under the yoke of political and economic imperialism for a period of more than 80 years, has found herself in a semi-colonial state. The weapons which the imperialists have employed in exploiting this country are no other than the unequal treaties. Such being the case, the Kuomintang and all its members, with the cooperation of the people, shall lead a nation-wide campaign for the realization of the foreign policy formulated by the First National Congress, thereby liberating China from her semi-colonial state and restoring all her lost sovereign rights.

However, in order to carry out the program of abrogating unequal treaties, the following conditions are prerequisite. First, the country shall be in fact under centralized and unified control; the thoughts of the people shall be solely guided by the Three Peoples' Principles and all domestic, diplomatic, military and financial affairs shall be unified under the National Government. Secondly, the reconstruction of the country shall be carried on in accordance with the program drawn up by our late leader in his book "Plans for National Reconstruction," so as to expedite the material reconstruction and to stabilize the economic condition of the nation. It is only when these shall have been achieved that we can expect success in our foreign affairs. Therefore, the more we can accomplish in the direction of these two prerequisite conditions, the less we shall be hindered in disposing of the unilateral treaties. In other words, the earlier we can fulfill these two conditions, the earlier we can see the unequal treaties terminated. These are what the party expects all party members and the people to struggle for during the period of political tutelage.

After all unequal treaties have been terminated, China will become a strong and wealthy nation and, as a matter of course, occupy an important position in the family of nations. It will then be our chance to strive for the realization of the spirit of Dr. Sun Yat-sen's foreign policy in its entirety.

The spirit of Dr. Sun Yat-sen's foreign policy in its entirety is based upon world brotherhood. From the foundation of absolute equality of the peoples of the world is to be built world peace. He recognized that in the history of the world, there had been two conflicting foreign policies. One is represented by the ancient Chinese idea of assisting the weak and the other is represented by the modern Western idea of imperialism. The difference between these two policies is fundamental. Imperialism aims at the conquest of territory, control of economic life and even suppression of native culture. The result is the creation of a line of demarkation dividing the world into two classes — the imperialists, and the weaker and smaller races — similar to the division in the capitalistic society. Imperialism is worse than capitalism in that the imperialists, in their exploitation of weaker peoples, usually find their interests conflict with one another, which eventually leads to world war.

Our late leader was convinced that the prevalence of foreign policy based upon imperialism would eventually lead to the destruction of mankind. Therefore, he strongly advocated that the party should revive our ancient teaching of helping the weak as it has been fighting for nationalism.

China for many thousand years has been a powerful nation. In spite of her advantageous position, however, she never attempted to deprive Korea, Siam, Burma, Annam and other small countries of their independence, but has given them instead her civilization. The imperialist powers of to-day, on the contrary, with only several hundred years of history behind them, have conquered these small nations one after another and converted them into their own colonies. Which one of these two policies is really superior is self-evident.

Regarding the basic principle of China's foreign policy, Dr. Sun declared: "When China becomes a strong power, not only should she restore the former status of the Chinese race, but also discharge the grave responsibility she owes the world — the responsibility of helping all the weaker peoples."

It is clear, therefore, that we should assist the weak and resist the strong; and with our moral and peaceful background as a foundation, we should build up a world of permanent peace.

The basic principle of China's foreign policy should be permanent world peace through equality of peoples. If and when all the nations of the world have equality and independence, world peace will then be permanent; and all our energies, physical and mental, which would otherwise be exerted in warfare, can be used for the development of the civilization of peace.

The spirit of the above basic principle of China's foreign policy should always be unaltered, although its enforcement might permit deviation from rigidity. It is the foundation upon which China's future foreign relations are to be based. It is what the Chinese people demand in the interest of their race. It is this goal which the Kuomintang is striving to reach.

4. Manifesto of the Kuomintang Central Executive Committee, June 18, 1929[1]

The most important task of our party during the educative period of the Chinese people's development consists in observing the injunctions of our late leader, Dr. Sun Yat-sen, and in realizing the Three Principles of the People in actual constructive work. The people should be thoroughly trained in the exercise of political power so that the revolution may be really brought to an end and the foundations of the republic solidly laid. The unification of China is now completed; the state burial of Dr. Sun has been held; and we have opened the present conference of the Central Executive Committee as part of the program of the recent Third Party Congress and in fulfilment of the wishes of the people. It is the intention of the present conference to concentrate upon the purely constructive side and to submit those fundamental questions with which the nation is now confronted to the most careful consideration in order that we might be able to decide upon the policy of the party and the government which must be one that can be fully realized and fulfilled.

Such being the functions of the present conference, the questions which were brought up for discussion partook of a constructive nature and every one of them underwent thorough analysis. All the resolutions which we have adopted are those which we think can be immediately carried out. Among the important resolutions are those which appertain to the progress of the party, to the limitation of the length of the educative period, to popular organizations, to the promotion of local self-government, to the proper exercise of the functions of government, and to the organization and completion of the five *Yuan* as established by the organic law. All these questions are of great importance to the party and to the Government, and it therefore behooves the present conference to decide upon the policy to underlie these fundamental questions. As regards foreign affairs, military affairs, finance, communications, education, home affairs, agriculture, mining, commerce and such other economic questions, and also as regards conservancy work, the suppression of banditry, the suppression of opium and the organization of Tibetan and Mongolian affairs, we have decided on the different stages in which their programs should be carried out as well as the specific functions to which they should

[1] *The Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, No. 3, p. 67.

each be given. It is our hope that we will thus be able to make the educative period in the development of China one of actual accomplishments and to devise a comprehensive program of reconstruction. There is no question that the country is already unified, and that the party is now fully in the educative stage. What the people expect from the party is that we may be able to carry out our program to the fullest extent. It is only then that the party can be considered, in the real sense of the term, the leaders of the country. It is only then that those who desire to cooperate, may have a definite policy to go by. It is the firm belief of the present conference that all the party members and all the people in the country who realize the present conditions of the country and the need of positive accomplishments in our revolutionary endeavor will exert their utmost in supporting what we have decided upon and in helping to carry out our resolutions.

1. In order to fulfill the principles of the party we must see to it that the country is truly unified. In order, however, to have true unification we must abide by the injunctions of Dr. Sun to lay out a comprehensive constructive program and to improve the conditions of the country both in a spiritual and in a material sense. It is only under such circumstances that the militarists will have no room for expansion. The general policy laid down by the Third Party Congress is what the party acknowledges to be of great importance. But in the prosecution of these principles, if we do not have genuine unification, if the country does not give its entire support to the Government, it will be difficult not to find the Government confronted with all kinds of obstacles. The result is that the people will find reason to be disheartened which will eventually leave its scars in our constructive work. That is the reason why, in addition to carrying out our constructive schemes with all the energy we can muster, the party will still find it necessary to continue showing its revolutionary spirit and to remove all vestiges of the old régime both in their implicit and explicit forms. These vestiges encourage counter-revolutionary activities and are thus serious obstacles to the real unification of the country and to any endeavor of a constructive nature. That is the reason why the whole nation should regard them, in whatever form they appear, as our worst public enemy. This is the first point which we should bear in mind.

2. In order to carry out the principles of the party there is another consideration which we must bear in mind, and that is the attainment for China of a status of equality and complete freedom in the family of nations. So long as unequal treaties remain, all constructive schemes, however well thought out they may be, are of no avail, because as long as our political sovereignty is impaired, we are unable to exercise the fullest freedom in our constructive work. The abolition of the unequal treaties must therefore be an integral part of our revolutionary endeavor. We have seen what our efforts to abolish these unequal treaties have already meant for us within the last year. But we should continue to exert renewed energy on the work thus begun. The present con-

ference feels that in order to carry out the resolutions we have adopted we should first establish genuine equality of status for China. The unequal treaties must be done away with at whatever sacrifice. We should proceed with an attitude of determination, and with a method which is really practicable. This is the second point which we must bear in mind.

3. Training the people to exercise the five powers and establishing local self-government are important items in the program during the educative stage. These ideas are stated in Dr. Sun's two works, "The Principles of National Reconstruction" and "The Methods in the Promotion of Local Self-Government." If there are no solid achievements in local self-government, it will be difficult for the party and the Government to establish complete political democracy. In that case we shall not be in any better condition than the countries where the powers are delegated to an enlightened oligarchy, and the whole meaning of the term "educative" will be entirely lost. It will be difficult also under those circumstances to reduce the hardships of the people and to carry out any real constructive program. Fully acknowledging that the establishment of local self-government is the most important task of the present educative stage, the present conference has not only decided upon the means whereby local self-government will be promoted and the length of time in which local self-government for the *hsien* will be completed, but it has also decided to impress upon all party members that the promotion of local self-government is the most important part of their duty. Let all those, therefore, who call themselves the true followers of our late leader devote their entire energy to the promotion of local self-government. This is the third point which we should bear in mind.

4. Deciding upon the length of the educative period. The present conference has decided that the educative period should be one of six years and shall terminate by 1935. We are fully aware that in view of the vast extent of the country's territory, the wide discrepancies in the standard of the education of the people and also the possibilities of counter-revolutionary manifestations, we shall perhaps find six years much too short a period, especially as we are intrusted with so many responsibilities. But we hope the whole nation realizes that, after all, the one aim of the present revolution is that it may satisfactorily complete the educative period in the development of the nation so that the constitutional powers may ultimately be delegated to the people. The establishment of constitutionalism is not what the party alone should do everything to realize, but we hope that the whole country should be fully conscious of its great importance, and there should therefore be the fullest cooperation between the party and the nation. If we really fail to bring this educative period to a fruitful end and can not complete the revolutionary work for which Dr. Sun has made such considerable sacrifice, it will augur well neither for the party nor for the whole country. It is the wish of the party, therefore,

that the whole country will emphasize this essential aspect of our work. This is the fourth point we should bear in mind.

The above four considerations are what the party believes should be the main task of the nation to be fully carried out within the shortest period. The present conference feels that we really should entertain no fear for the militarists of the old régime, nor for counter-revolutionary activities, nor even for the dangers of feudalism. What we should really be afraid of is that we would not be able to carry out the spirit of Dr. Sun Yat-sen and courageously to complete the constructive program of the revolution. It is the further belief of the present conference that it is not difficult to suppress the aggression on the part of the imperialist powers nor is it difficult to establish complete equality of status for China in the family of nations. What we should really be afraid of is that the people will not be able to endure hardships and to show to others that the nation does not brook effrontery of any sort. What the present conference considers to be the greatest danger is when the nation shows inertia and moral lassitude. If we succeed in suppressing the militarists on the battlefield and are unable to conquer the habit of laziness, then, indeed, is it difficult for the nation to reap the fullest benefit from the revolution. If the party is unable to alleviate the sufferings of the people through a policy based upon established principles, and to arouse the confidence and respect of the people through actual constructive work, then what we have sacrificed is indeed something which we have frittered away. Without peace, it is really impossible to mitigate the sufferings of the people in China to-day. But in order to attain peace, we must have unification, and yet it is impossible to attain real unification without removing all the obstacles which the régime of militarism has chosen to cast upon the nation. In order to prevent the militarists from having their way, however, we must do all we can to show something constructive and to train the people in real political democracy. But again when we speak of constructive schemes, nothing can be accomplished without mustering all the forces of the nation into an organized unit. The casual relations between these factors are indeed irrefragable, so that the only way to remove all the difficulties whatsoever is to continue our struggle and our endeavor. It is only when all the party members and all the people in the nation cooperate to the fullest extent in pushing forward with the guidance of the principles of the party and show willingness to sacrifice and a firm determination to complete the educative period in an orderly manner that we shall be able to remove the sufferings of the people. Under these circumstances only can the nation establish a solid foundation. It is only thus that counter-revolutionary measures can be suppressed and national equality won. It is our hope that we shall be loyal and courageous, and present a united front in the attainment of our declared aims.

II. CHINESE TREATY REVISION

[NOTE. — China is making rapid progress in revising its "unequal treaties." New treaties made in 1928 with France, Great Britain, the Netherlands, Norway, Sweden and the United States were due to the willingness of these states to recast their tariff relations with China. The treaties of 1928 with Belgium, Denmark, Italy, Portugal and Spain were made as a result of the expiration of a conventional period of earlier treaties and Chinese use of that circumstance to bring about new agreements. The following notes illustrate stages of the negotiations leading to the conclusion of new treaties.]

1. American and British Policy

NOTE OF THE NATIONALIST MINISTER OF FOREIGN AFFAIRS (GENERAL HWANG FU) TO THE AMERICAN MINISTER, SHANGHAI, APRIL 2, 1928; DR. C. T. WANG TO THE BRITISH MINISTER, SHANGHAI, AUGUST 9, 1928 [1]

Referring to the notes exchanged this day on the subject of the settlement of the questions arising out of the Nanking incident of March 24, 1927, the minister for foreign affairs of the Nationalist Government has the honor to express the hope that a new epoch will begin in the diplomatic relations between China and the United States; and to suggest that further steps may be taken for the revision of the existing treaties and the readjustment of outstanding questions on the basis of equality and mutual respect for territorial sovereignty.

THE AMERICAN MINISTER TO CHINA, J. V. A. MACMURRAY, TO GENERAL HWANG FU, MINISTER FOR FOREIGN AFFAIRS, NANKING, APRIL 2, 1928 [2]

The American minister has the honor to acknowledge the receipt of a note of to-day's date in which the minister for foreign affairs expressed the hope that a new epoch would begin in the diplomatic relations between the United States and China and that further steps might be taken for the revision of the existing treaties and the readjustment of outstanding questions on the basis of equality and mutual respect for territorial sovereignty.

[1] The notes are identic, *mutatis mutandis*, the note to the British minister, however, being in the direct form of discourse. American text from Department of State release; British in Cmd. 3188 and *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 69.

[2] Reprinted from Department of State release.

Although the questions of treaty revision can scarcely be considered germane to that of amends to the American Government and its nationals for the Nanking incident, the American minister is not averse to setting forth at this time what he has already made known in that regard to the minister for foreign affairs in conversations with him last month.

It is unnecessary to recall the traditional friendship existing between the United States and China. As is manifest alike from the course of action consistently pursued by the American Government and from the statement of policy made by the Secretary of State on January 27, 1927,[1] the Government and the people of the United States are in full sympathy with the desire of the Chinese people to develop a sound national life of their own and to realize their aspirations for a sovereignty so far as possible unrestricted by obligations of an exceptional character. With that in view, the American Government entertains the hope that the remedying of the conditions which necessitated the incorporation of such provisions in the earlier treaties may from time to time afford opportunities for the revision, in due form and by mutual consent, of such treaty stipulations as may have become unnecessary or inappropriate.

To that end, the American Government looks forward to the hope that there may be developed an administration so far representative of the Chinese people, and so far exercising real authority, as to be capable of assuring the actual fulfilment in good faith of any obligations such as China would of necessity have for its part to undertake incidentally to the desired readjustment of treaty relations.

THE BRITISH MINISTER, SIR MILES W. LAMPSON, TO DR. C. T. WANG, MINISTER FOR FOREIGN AFFAIRS [2]

[*Shanghai, August 9, 1928.*]

SIR,

I have the honor to acknowledge the receipt of Your Excellency's note of to-day's date in which you expressed the hope that a new epoch would begin in the diplomatic relations between Great Britain and China, and that further steps might be taken for the revision of the existing treaties and the readjustment of outstanding questions on the basis of equality and mutual respect for territorial sovereignty.

His Majesty's Government in Great Britain recognize the essential justice of the Chinese claim to treaty revision and in their declaration of December 18, 1926, and their seven proposals of January 28, 1927,[3] they have made their policy abundantly clear and have taken such

[1] For text see Hornbeck, *op. cit.*, p. 550.

[2] *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 70.

[3] League of Nations, *Official Journal*, Vol. VIII, p. 294.

practical steps as lay in their power to carry it into effect. In order to give further expression to the friendly and sympathetic attitude which they have always maintained towards China, His Majesty's Government in Great Britain are prepared in due course to enter into negotiations with the Nationalist Government, through their duly authorized representatives, on the subject of treaty revision. His Majesty's Government in Great Britain do not intend to allow the Nanking incident to alter their previous attitude towards China and prefer to consider it as an episode bearing no relation to their treaty revision policy.

I avail, etc.

(For His Majesty's Minister)
(Signed) SIDNEY BARTON.

2. The Sino-Japanese Negotiations

MEMORANDUM OF THE NATIONALIST GOVERNMENT, AUGUST 14, 1928 [1]

The Foreign Office of the Nationalist Government beg to acknowledge on August 7 the receipt of the note of the Japanese legation, dated July 31,[2] stating the interpretation of the text of the Sino-Japanese commercial treaty and the view of revising the same, and that the contents were carefully perused.

The Nationalist Government are pleased to note that the Japanese Government are prepared for the discussion of the revision of the treaty, the indication of which is received with profound expectation and sympathy, because the conclusion of a new treaty is the fundamental policy of the Nationalist Government for the sake of promoting international relations with Japan.

The Sino-Japanese commercial and navigation agreement, its annexed documents and protocols concluded in 1896, and the additional agreement made in 1903 were formed well nigh 30 years ago. During those 30 years, economic, business and national relations as well as political conditions of the two countries having undergone many changes; much is found in the treaties that does not conform with the prevailing state of affairs in the two countries. Should the treaty be enforced, many difficulties would arise and misunderstandings between the people would ensue.

Based on such reasons, the Nationalist Government think it proper to revise the treaty fundamentally at once and to conclude a new treaty on the principle of equality and reciprocity, in order that amity between China and Japan can be promoted. The Nationalist Government are aware that the Japanese Government, being sympathetic to China, will exert their efforts in perfect sincerity toward the enhancement of the common welfare of the two countries.

[1] *Week in China*, September 1, 1928, p. 3–5.

[2] This note and the Chinese notice of July 19, 1928, are not here reprinted; see *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 72.

According to the note of the Japanese minister, Art. 26 of the Sino-Japanese commercial treaty concluded in 1896 stipulates that, should in the future a party to the treaty desire to revise any article contained in it, it should be notified to the other party within six months after the expiration of the treaty and discussion thereanent should be had, and that in case no declaration is made by either party, the articles and tariff regulation contained in the treaty should remain unchanged for a future 10 years, after which they can be revised on the request of either or both parties.

Regarding the above, the Japanese minister seems to understand that when negotiations for revision are not completed in six months, the treaty and tariff regulations will be valid for further 10 years. The Nationalist Government hold that it should be interpreted that the validity is extended 10 years only in case the two countries do not declare its revision within six months after its expiration. In other words, if either party proposes its revision within six months after the expiration of the treaty, and negotiations have not been concluded within the stipulated period, the said treaty and tariff regulations shall cease to be valid.

The Nationalist Government, carefully observing the tide of international progress, the aspirations of the Chinese people and their economic and commercial conditions, learn that all unequal treaties or those not in conformity with the prevailing state of affairs in the country will obstruct international comity and guaranty for peace. Furthermore, as international relations change from time to time, there should be no treaty that can remain applicable at all times. Hence the attempts of the Nationalist Government for the abrogation or suspension of the treaty for the above-mentioned reason can not be called an action of disregarding international faith on their part. This is proved by the fact that the Foreign Office published a statement dated July 7,[1] declaring that all the treaties concluded between China and various countries, which expired, shall be abolished and new agreements shall be concluded, those that are still in force being revised through a proper procedure. Thus they established a distinction between those whose terms expired and those that have not, in order to show that they fully respect international faith. The Nationalist Government deeply regret the use of the language by the Japanese Government in their note, which has not been used in diplomatic notes.

The interim regulations made public on July 7 by the Nationalist Government are intended to be enforced in order to maintain political and commercial relations between the Chinese Republic and other countries when old treaties expired and new treaties have not yet been concluded, not intending to apply it to any special country. In view of the close and complicated relations between China and Japan, the Nationalist Government have given the subject careful consideration.

[1] *Cf.* statement of July 8, 1928, *supra*, p. 140.

Now that the Japanese Government express their willingness to consent to the negotiation of revision of the treaty with pleasure, the Nationalist Government will make preparations for parley in perfect sincerity.

In short, the only desire of the Nationalist Government is to conclude speedily a new treaty on an equal footing, respecting mutual sovereignty, to replace the old worn-out treaty which is unfair in the prevailing conditions. They are prompted by the desire of promoting international amity with Japan. What the Nationalist Government sincerely hope is to conclude the new treaty soon, because China and Japan being neighboring countries of a same race are interdependent in their existence and prosperity, thus enhancing the common welfare of the two countries. The Nationalist Government hope that the Japanese Government will detail a plenipotentiary soon in compliance with the note of the Foreign Office dated July 19, open negotiations within the shortest possible period, and accelerate the establishment of a new treaty in mutual sincerity, so that the international relations between China and Japan shall be further cemented and the friendship of their nationals can be solidly formed.

The Japanese Minister to the Chinese Minister for Foreign Affairs, April 26, 1929 [1]

[Translation by the Japanese legation at Peiping]

The Japanese minister has the honor, by the instructions of his Government, to communicate the following to the ministry of foreign affairs of the National Government of China in reply to the latter's memorandum of August 14, 1928, on the subject of the Sino-Japanese commercial treaty.

1. The National Government of China, founding solely on the Chinese text, construe Art. 26 of the Sino-Japanese commercial treaty as providing that in case either of the contracting parties declares its intention of revising the treaty and negotiation upon such revision is actually entered into within six months after the lapse of 10 years, the treaty shall no longer remain in effect, and they contend that inasmuch as the Government at Peking, in their note of October 20, 1926, proposed the revision of the treaty, making at the same time a reservation of the rights that would automatically accrue to them in case a new treaty should not be concluded within six months as provided for in the old treaty, they are unable to consent to the extension of the currency of the treaty.

As was shown, however, in the note of the Japanese minister under date of July 31, 1928, it is quite clear both from the Japanese and English texts that in case the negotiations respecting the revision of the treaty and the tariff are not effected within six months after the

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 59. *Cf.* text in *Japan Weekly Chronicle*, May 9, 1929, p. 535.

end of the current 10-year period, then the treaty and the tariff are to remain in force for another 10 years.

The Japanese Government can not but deeply regret that there should be any discrepancy of views upon a provision so free from ambiguity. If there is really any room for different interpretations between the Japanese and Chinese texts, the English text, by Art. 28 of the treaty, is made decisive, and the English text, as above stated, being in complete accord with the Japanese.

The Japanese Government feel confirmed in the correctness of their construction. Furthermore, as pointed out in their memorandum of July 31, 1928, the Japanese Government, in accepting by their note of November 10, 1927, the proposal of the Peking Government for the revision of the treaty, made it clear that by virtue of Art. 26 of the treaty they declined to admit the Chinese reservation above mentioned, a point which they did not fail to emphasize at each succeeding extension of the period of negotiations.

That being the case, the so-called reservation of the National Government can not in any way have modified the provision of the treaty or have affected its validity.

2. It would seem that the National Government, taking it as absolutely permissible both in law and by usage to repudiate or suspend a treaty in reliance on the "principle of altered circumstances," on the one hand, propose the fundamental revision of the Sino-Japanese commercial treaty, and, on the other, endeavor to maintain, on that principle, their contention regarding the lapse of the treaty as set forth in their note of July 19, 1928.

But not only is the so-called principle of altered circumstances incapable of being regarded as an established rule of law in international relations, but the admission of such a principle would render almost all treaties liable to repudiation at the pleasure of either of the contracting parties, thus shaking the very foundations of international law. Nor is there any precedent where such a principle has ever had actual application. That there exists a specific provision concerning the validity of the treaty shows, not that the possibility of circumstances being altered in the future was not taken into consideration, but that care was taken that no such alteration of circumstances should of itself render the treaty null and void.

3. While the Japanese Government find it impossible to recede from the position they have hitherto taken on the question of the validity of the Sino-Japanese commercial treaty, they not only regard with the deepest sympathy the desire of the National Government to effect a revision of the treaty as soon as possible and so to enhance the friendly relationship between the two countries, but shall entertain the hope that the Chinese people may speedily achieve their great task of constructing a new régime on a sound basis, so that there may be harmony and tranquillity at home and cordial intercourse with Japan.

Should, therefore, the National Government show themselves so

far regardful of mutual good relations between Japan and China as to consent to regulate Sino-Japanese relations in accordance with the provisions of the existing treaty and on that basis propose its revision, the Japanese Government would be quite prepared to entertain such proposal and enter into negotiations with a view to effecting such revision of the treaty as may be deemed appropriate.

(Signed) K. Yoshizawa.

The Chinese Minister for Foreign Affairs to the Japanese Minister, April 27, 1929[1]

[Translation by the Japanese legation at Peiping]

The minister for foreign affairs of the National Government of China has the honor to acknowledge receipt of the memorandum of the Japanese legation under date of April 26, the contents of which have been carefully noted.

The views and assertions of the National Government in regard to the construction of the Sino-Japanese treaty were fully and clearly set forth in the memorandum addressed to the Japanese minister under the date of August 14, 1928. The question of the validity of the treaty, as stated before, is therefore so plain as hardly to call for further argument. Moreover, as an understanding has been reached between the two Governments in regard to their difference of views on the legal side of the question, the minister has no intention to discuss the matter further. Accordingly, the National Government are ready immediately and in all sincerity to enter into negotiations, in the hope that in the shortest possible time a new treaty might be concluded on the basis of equality and of mutual respect for sovereign rights.

(Signed) Chenting T. Wang.

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 61. *Cf.* text in *Japan Weekly Chronicle*, May 9, 1929, p. 536.

III. SETTLEMENT OF THE NANKING INCIDENT OF MARCH 24, 1927

1. Verification of Injuries and Damages [1]

NOTE OF THE NATIONALIST MINISTER FOR FOREIGN AFFAIRS TO THE AMERICAN MINISTER, SHANGHAI, APRIL 2, 1928; TO THE BRITISH MINISTER, SHANGHAI, AUGUST 9, 1928, AND TO THE JAPANESE MINISTER, NANKING, MAY 2, 1929 [2]

With reference to the Nanking incident which took place on the 24th of March last year, the minister for foreign affairs of the Nationalist Government has the honor to inform the American minister that, animated by a desire to promote the most friendly feelings happily subsisting between the American and Chinese peoples, the Nationalist Government are prepared to bring about an immediate settlement of the case, along the lines already agreed upon as a result of the discussions between us beginning from the 26th of February this year.

In the name of the Nationalist Government, the minister for foreign affairs has the honor to convey in the sincerest manner to the Government of the United States of America their profound regret at the indignities [3] to the American flag and to official representatives of that Government, the loss of property sustained by the American consulate and the personal injuries and material damages done to the American residents. Although it has been found, after investigation of the incident, that it was entirely instigated by the communists prior to the establishment of the Nationalist Government at Nanking, the Nationalist Government nevertheless accept the responsibility therefor.

[1] The notes are identic except as annotated but the British and Japanese exchanges are uniformly couched in the direct form of discourse.

The corresponding exchanges with the French chargé d'affaires of October 1, 1928, and with the Italian minister of October 8, 1928, are to the same effect, but differ in the omission of detailed statements. Neither note refers to the disbandment of offending troops. The replies while completely responsive also differ from those printed below, the French note being couched in particularly cordial terms. *North China Herald*, October 20, 1928, p. 81.

[2] American text from Department of State release; British from Cmd. 3188 and *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 67; Japanese from *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 62.

[3] The British note reads: "indignities and injuries inflicted upon official representatives of His Majesty's Government, the loss of property sustained by the British consulate, and the personal injuries and material damage done to the British residents."

The Japanese note reads: "indignities, property damage and personal injuries sustained by officials of the Japanese consulate and other Japanese residents."

The Nationalist Government have in pursuance of their established policy, repeatedly issued orders to the civil and military authorities for the continuous and effective protection of the lives and property of American residents in China.

With the extermination of the communists and their evil influences which tended to impair the friendly relations between the Chinese and American peoples, the Nationalist Government feel confident that the task of protecting foreigners will henceforth be rendered easier; and the Nationalist Government undertake specifically that there will be no similar violence or agitation against American lives or legitimate interests.

In this connection, the minister for foreign affairs has the pleasure to add that the troops of the particular division which took part in the unfortunate incident, at the instigation of the communists, have been disbanded. The Nationalist Government have in addition taken effective steps for the punishment of the soldiers and other persons implicated.

In accordance with the well-accepted principles of international law, the Nationalist Government undertake to make compensation in full for all personal injuries and material damages[1] done to the American consulate and to its officials and to American residents and their property at Nanking.

The Nationalist Government propose that for this purpose there be a Sino-American joint commission to verify the actual injuries and damages suffered by the American residents at the hands of the Chinese concerned, and to assess the amount of compensation due in each case.[2]

THE AMERICAN MINISTER TO CHINA, J. V. A. MACMURRAY, TO GENERAL HWANG FU, MINISTER FOR FOREIGN AFFAIRS, NANKING[3]

[*Shanghai, April 2, 1928.*]

The American minister has the honor to acknowledge the receipt of the note of this day's date from the minister for foreign affairs, which reads as follows:

[Here follows the note in full.]

In the full realization of the inherent justice and honor of the Chinese people when not affected by the incitations of subversive influ-

[1] The British note reads: "damage done to the British consulate and to its officials and to British residents and their property at Nanking."

The Japanese note reads: "damage done to the Japanese consulate, Japanese officials and other Japanese residents at Nanking."

[2] The Sino-American joint commission completed its work and signed its report March 12, 1929 (*North China Herald*, March 16, 1929, p. 434). It has later been announced that the total of the awards amounts to $887,177.58 silver (*Current History*, September, 1929, Vol. 30, p. 1176).

[3] The notes were actually exchanged between E. S. Cunningham, the American consul-general at Shanghai, and Quo Tai-chi, Chinese commissioner for foreign affairs.

ences, and with a deep appreciation of the sorrow and humiliation caused to all elements of that people by the Nanking incident, and believing that the earnest given as to the punishment of those guilty of the incident will be completely fulfilled at the earliest opportunity — particularly as regards Liu Tsu-han, who was personally responsible for the incident — the American minister accepts in behalf of his Government the terms set forth in the note from the minister for foreign affairs in definite settlement of the questions arising out of that incident.

Confident of the spirit of sincerity in which the present settlement has been made, the American Government look to the loyal fulfillment of the said terms of settlement, as affording a measure of the good faith and good will with which it may anticipate being met, by the Nanking authorities, in other phases of the relationships between the American and the Chinese peoples.

THE BRITISH MINISTER, SIR MILES W. LAMPSON, TO DR. C. T. WANG, MINISTER FOR FOREIGN AFFAIRS[1]

[*Shanghai, August 9, 1928.*]

SIR,

I have the honor to acknowledge the receipt of Your Excellency's note of this day's date which reads as follows.

[Here follows in full the note addressed to the British minister; see recension of text above.]

I have also taken note of the orders recently issued by the Nationalist Government regarding the punishment of those implicated and regarding the prevention of similar incidents in the future, and believing that prompt and full effect will be given to the intentions so expressed, I accept on behalf of His Majesty's Government in Great Britain Your Excellency's note in settlement of the demands contained in the communication of April 11, 1927, addressed to the former minister for foreign affairs.

I avail myself, etc.

(For His Majesty's Minister)

(Signed) SIDNEY BARTON,
H. B. M. Consul-General at Shanghai.

THE JAPANESE MINISTER TO DR. C. T. WANG, MINISTER FOR FOREIGN AFFAIRS[2]

M. LE MINISTRE,

I have the honor to acknowledge the receipt of Your Excellency's note of to-day's date, and I beg to express agreement to the proposal

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 68.

[2] *Japan Weekly Chronicle*, May 16, 1929, p. 559.

made in the said note and to add that in case the National Government fully discharge their obligations above mentioned in the shortest possible period of time, all questions arising from the Nanking incident will be regarded as finally settled.

May 2nd, 1929.

2. Use of War Vessels — Expressions of Regret

NOTE OF THE NATIONALIST MINISTER FOR FOREIGN AFFAIRS (GENERAL HWANG FU) TO THE AMERICAN MINISTER, SHANGHAI, APRIL 2, 1928, AND OF DR. C. T. WANG TO THE BRITISH MINISTER, SHANGHAI, AUGUST 9, 1928

Referring to the notes exchanged this day on the subject of the settlement of the questions arising out of the Nanking incident of March 24, 1927, the minister for foreign affairs of the Nationalist Government has the honor to invite the attention of the American minister to the fact that on that date fire was opened upon Socony Hill, at Nanking, by the American war vessels, *Noa* and *Preston*,[1] then lying in port. In view of this fact, the Nationalist Government earnestly hope that the American Government will express regret at this action.

THE AMERICAN MINISTER TO CHINA, J. V. A. MACMURRAY, TO GENERAL HWANG FU, MINISTER FOR FOREIGN AFFAIRS, NANKING, APRIL 2, 1928[2]

The American minister has the honor to acknowledge the receipt of a note of to-day's date from the minister for foreign affairs, in which reference was made to the fact that on March 24, 1927, the American war vessels, *Noa* and *Preston*,[3] then lying in port, opened fire upon Standard Oil Company hill at Nanking, and in which the hope was expressed that the American Government would indicate their regret at this action. In reply, the American minister has to point out that the firing referred to was in fact a protective barrage, strictly confined to the immediate neighborhood of the house[4] in which the American consul and his family and staff, together with many others, had been driven to seek refuge from the assaults of an unrestrained soldiery: and not only did it provide the only conceivable means by which the lives of this party were saved from the danger that immediately threatened them, but it also made possible the

[1] The note to the British minister reads: "British war vessel H. M. S. *Emerald*."

[2] The notes were actually exchanged between E. S. Cunningham, the American consul-general at Shanghai, the Quo Tai-chi, Chinese commissioner for foreign affairs.

[3] The British note reads: "H. M. S. *Emerald*."

[4] The British note reads: "foreign houses, in which a number of British subjects had," etc.

evacuation of the other Americans[1] residing at Nanking, who were in actual peril of their lives. The American Government therefore feels that its naval vessels had no alternative to the action taken, however deeply it deplores that circumstances beyond its control should have necessitated the adoption of such measures for the protection of the lives of its citizens at Nanking.

THE BRITISH MINISTER, SIR MILES W. LAMPSON, TO DR. C. T. WANG, MINISTER FOR FOREIGN AFFAIRS[2]

[*Shanghai, August 9, 1928*]

[The minister's note is identic with the two paragraphs of the American note except that it refers to "the British war vessel H. M. S. *Emerald*."]

The third paragraph reads:

His Majesty's Government in Great Britain therefore feel that the measures taken by H. M. S. *Emerald* were absolutely necessary for the protection of British life and property, however deeply they may deplore the fact that the circumstances at Nanking on March 24, 1927, were such as to render necessary the adoption of these measures.

[1] The British note reads: "of other British residents at Nanking."

[2] *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 69.

IV. CHINESE TARIFF AUTONOMY

1. Treaty regulating Tariff Relations between the United States of America and the Republic of China [1]

Signed at Peiping, July 25, 1928; ratifications exchanged at Washington, February 20, 1929; proclaimed, February 23, 1929

[NOTE. — The text below is the form adopted (except for Great Britain) for establishing Chinese tariff autonomy with respect to states whose customs or commercial treaties were either made without time limit or for which the term for periodical revision had not arrived. The text of the following treaties is essentially identic and has the effect of annulling cognate provisions in the previous treaties then in force. The last treaty containing provisions limiting the right of China to determine its own tariff was the treaty relating to the Chinese customs tariff, signed at the Washington Conference, which was in force for the five states noted below and for Great Britain. In the cases where the treaties have been registered with the Secretariat of the League of Nations, the League registration number is given.

France: Treaty regulating customs relations, signed at Nanking, December 22, 1928; for annulment see annex below.

Netherlands: Treaty regulating tariff relations, signed at Nanking, December 19, 1928.

Norway: Treaty regulating tariff relations, signed at Shanghai, November 12, 1928; in force from March 1, 1929; Reg. No. 1983.

Sweden: Treaty regulating tariff relations, signed at Nanking, December 20, 1928.

United States: Treaty regulating tariff relations, signed at Peiping, July 25, 1928; ratifications exchanged, February 20, 1929; proclaimed, February 23, 1929.]

[Excerpt]

ART. I. All provisions which appear in treaties hitherto concluded and in force between the United States of America and China relating to rates of duty on imports and exports of merchandise, drawbacks, transit dues and tonnage dues in China shall be annulled and become inoperative, and the principle of complete national tariff autonomy shall apply subject, however, to the condition that each of the high contracting parties shall enjoy in the territories [2] of the other with respect to the above specified and any related matters treatment in

[1] United States, *Treaty Series*, No. 773. For the other four treaties, see *China Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 7 *ff.*

[2] The Netherlands treaty reads: "territories, possessions and colonies."

no way discriminatory as compared with the treatment accorded to any other country.

The nationals of neither of the high contracting parties shall be compelled under any pretext whatever to pay within the territories of the other party any duties, internal charges or taxes upon their importations and exportations other or higher than those paid by nationals of the country or by nationals of any other country.

The above provisions shall become effective on January 1, 1929, provided that the exchange of ratifications hereinafter provided shall have taken place by that date; otherwise, at a date four months subsequent to such exchange of ratifications. [1]

France — Special Conditions

Annex I [2]

Nanking, December 22, 1928.

M. le Ministre,

Referring to Art. I of the treaty concluded on this date, I have the honor of confirming to you that the minimum French tariff will continue to be applied to the Chinese merchandise enumerated on the enclosed list until the conclusion of the understanding referred to in the following paragraphs.

For the other articles in favor of which the Chinese Government wishes to obtain the benefit of the minimum French tariff, because it is impossible for the French Government, on account of its tariff legislation, to accord this tariff *en bloc*, it is understood that a separate reciprocal tariff convention will be negotiated.

Accept, M. le Ministre, the assurances of my highest consideration.

(Signed) D. de Martel.

H. E. Dr. Chengting T. Wang,
Minister of Foreign Affairs, Nanking.

List of Chinese Articles to be Admitted to France under the Minimum Tariff

Tissue de sois pure (pure silk goods)
Foulards de sois pure (silk foulards)
Crêpes de sois pure (silk crepes)
Tulles de sois pure (silk tulles)
Passementéries de sois pure (silk laces)

[1] This paragraph omitted in the treaties with France, Netherlands, Norway and Sweden.

[2] The alternat letter, which is fully responsive, is omitted. The text is from the *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 43.

Poivre (pepper)
Piment (pimento)
Cannelle (cinnamon)
Muscade en coque et sans coque (nutmeg ground and unground)
Girofle (cloves)
Thé (tea)

Annex II[1]

Nanking, December 22, 1928.

M. LE MINISTRE,

In the course of the negotiations which have been held, we have studied, in a spirit of friendly equality, various questions pending between our two countries, and I wish to state precisely, as follows, the results of our exchange of views.

1. The French Government is disposed to start without delay negotiation for the conclusion of a new convention designed to replace the Franco-Chinese convention of April 25, 1886, the supplementary convention of commerce of June 26, 1887, and the convention supplementary to this one dated June 10, 1895.

In the interests of the two Governments, no change will be made from present conditions in relation to Indo-China during the negotiations, it being understood that the principle of the uniformity of tariff charges on land and sea frontiers is to be applied, so that the tariff enforced on the Chinese maritime frontiers will be simultaneously applied at the Indo-Chinese frontier. In the meantime, the present reductions in the duties on imports and exports will remain in force during the negotiations, which the French Government is disposed, on its part, to conclude promptly.

2. In the interests of the development of Franco-Chinese economic relations, it is necessary that excessive taxes shall not be imposed on merchandise.

For this reason, the abolition of *likin* has seemed desirable to both the French and Chinese Governments. Likewise, the imposition of the tariff charges referred to above and of provincial taxes designed to replace *likin*, would be likely to paralyze trade. The French Government does not doubt that the Chinese Government will abolish *likin* with the least possible delay, after the coming into force of the new customs régime and will effectively prevent the establishment of the said provincial taxes.

3. The service of the interest on certain French financial loans concluded by the Government of China at present is interrupted by lack of resources. The assignment of a part of the additional receipts furnished by the customs for the service of these loans will constitute

[1] The alternat letter, which is identic, *mutatis mutandis*, is omitted. The text is from the *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 44.

a measure appropriate to the active development of Franco-Chinese economic relations, and the French Government has no doubt that the National Government will put the necessary arrangements into effect.

Accept, M. le Ministre, the assurances of my highest consideration.

(Signed) D. DE MARTEL.

H. E. DR. CHENGTING T. WANG,
Minister of Foreign Affairs, Nanking.

Annex III[1]

Ministry of Foreign Affairs,
Nanking, December 22, 1928.

M. LE MINISTRE,

I have the honor to inform you that the National Government hopes to conclude with the French Government, before March 31, 1929, a new convention concerning Indo-China, the negotiation of which already has been discussed.

In the meantime, the arrangements relative to the reduction of duties on imports and exports on the frontier of Indo-China, the arrangements to which reference was made in Your Excellency's letter of this date, will cease to be in force after March 31, 1929, even if the new convention be not then completed.

Accept, M. le Ministre, the assurances of my highest consideration.

(Signed) CHENGTING T. WANG.

H. E. LE COMTE MARTEL,
Envoy Extraordinary and Minister Plenipotentiary
of the French Republic to China.

NETHERLANDS — SPECIAL CONDITIONS[2]

Ministry of Foreign Affairs,
Nanking, December 19, 1928.

M. LE MINISTRE,

In reply to Your Excellency's note of to-day's date I have the honor to state that with a view to eliminating all possible doubts with respect to the meaning and the scope of Art. I of the treaty regulating tariff relations between China and the Netherlands which we have

[1] The alternat letter, which is identic, *mutatis mutandis*, is omitted. The text is from the *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 46.

[2] The alternat letter, which is identic, *mutatis mutandis*, is omitted. The text is from the *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 30.

signed to-day, my Government holds that the said article also includes the following:

That there shall not be levied on the produce or the manufactures of either of the high contracting parties on their importation into the territories, possessions or colonies of the other party, nor on the produce and the manufactures of either of the high contracting parties on their exportation to the territories, possessions or colonies of the other party, any duties, internal charges or taxes other or higher than are now or may hereafter be imposed on the like articles when imported from or when exported to any other country.

It is understood that Your Excellency's note and this reply thereto shall have the same force between the two high contracting parties as the treaty itself.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) CHENGTING T. WANG.

His Excellency
Mr. WILLEM JACOB OUDENDIJK,
Netherlands Minister to China, Nanking.

2. Treaty between His Britannic Majesty and the President of the Chinese Republic relating to the Chinese Customs Tariff, etc., with the Annexes thereto [1]

Signed at Nanking, December 20, 1928; in force February 1, 1929; ratifications exchanged at London, March 14, 1929

[Excerpt]

ART. 1. It is agreed that all provisions of the existing treaties between the high contracting parties which limit in any way the right of China to settle her national customs tariff in such way as she may think fit are hereby abrogated, and that the principle of complete national tariff autonomy shall apply.

ART. 2. The nationals of either of the high contracting parties shall not be compelled under any pretext whatsoever to pay in China and the territories of His Britannic Majesty to which the present treaty applies respectively any duties, internal charges or taxes upon goods imported or exported by them other than or higher than those paid on goods of the same origin by Chinese and British nationals respectively, or by nationals of any other foreign country.

ART. 3. His Britannic Majesty agrees to the abrogation of all provisions of the existing treaties between the high contracting parties which limit the right of China to impose tonnage dues at such rates as she may think fit.

[1] Great Britain, *Treaty Series*, No. 10 (1929), Cmd. 3319. The treaty contains no provision concerning abrogation.

In regard to tonnage dues and all matters connected therewith, British ships in China and Chinese ships in those territories of His Britannic Majesty to which the present treaty applies, shall receive treatment not less favorable than that accorded to the ships of any other foreign country.

ANNEX I — DR. WANG TO SIR M. LAMPSON [1]

Ministry of Foreign Affairs,
Nanking, December 20, 1928.

EXCELLENCY,

I have the honor to acknowledge the receipt of Your Excellency's note of to-day's date, reading as follows:

"With reference to the treaty concluded this day between His Britannic Majesty and the president of the National Government of the Republic of China, I have the honor to request that Your Excellency will be good enough to confirm my understanding that:

"1. Articles produced or manufactured in those territories of His Britannic Majesty to which the present treaty applies, and imported into China, and reciprocally articles produced or manufactured in China and imported into the said territories of His Britannic Majesty, from whatever place arriving, shall receive, as regards import duties, internal taxation, transit dues and all matters connected therewith, treatment not less favorable than that accorded to goods the produce or manufacture of any foreign country.

"2. Articles produced or manufactured in China and exported to those territories of His Britannic Majesty to which the present treaty applies, and reciprocally articles produced or manufactured in the said territories of His Britannic Majesty and exported to China, shall receive, as regards export duties, internal taxation and transit dues, levied before export, and all matters connected therewith, treatment not less favorable than that accorded to goods exported to any other foreign country."

I hereby confirm that your understanding is correct.

I avail, etc.

CHENGTING T. WANG.

ANNEX II — DR. WANG TO SIR M. LAMPSON [2]

Ministry of Foreign Affairs,
Nanking, December 20, 1928.

EXCELLENCY,

I hereby take note of the renunciation by His Britannic Majesty of the rights of His Governments in Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa and the Irish Free

[1] The alternat letter of Sir Miles W. Lampson to Dr. Wang omitted.

[2] *Ibid.*

State, and of the Government of India, as from the entry into force of the treaty concluded this day between His Britannic Majesty and the president of the National Government of the Republic of China to benefit by the provisions of existing treaties which limit in any way the right of China to settle her customs tariff or to impose tonnage dues at such rates as she may think fit. I also take note of the renunciation by His Majesty of His rights in respect of Newfoundland, Southern Rhodesia and all His non-self-governing colonies and protectorates.

I have the honor, on behalf of the National Government of the Republic of China, to assure you that goods produced or manufactured in any of the parts of His Majesty's territories mentioned above or in any of the territories under their administration or in any territory under His Majesty's suzerainty or in any territory in respect of which a mandate is exercised by His Majesty's Government in Great Britain, the Commonwealth of Australia, New Zealand or the Union of South Africa will receive most-favored-nation treatment in China, so long as goods produced or manufactured in China receive in such territory treatment as favorable as that accorded to goods produced or manufactured in any other foreign country.

I have also to assure you, on behalf of the National Government of the Republic of China, that articles produced or manufactured in China and exported to any of the territories mentioned above will receive most-favored-nation treatment as regards export duties, internal taxation or transit dues, levied before export, or matters connected therewith, so long as goods produced or manufactured in such territory and exported to China receive in corresponding matters treatment as favorable as that accorded to goods exported to any other foreign country.

I avail, etc.

CHENGTING T. WANG.

ANNEX III — DR. WANG TO SIR M. LAMPSON[1]

Ministry of Foreign Affairs,
Nanking, December 20, 1928.

EXCELLENCY,

With reference to Your Excellency's note of to-day's date, I have the honor to confirm the correctness of your understanding that the ad valorem rates of duty or the specific rates based thereon in the national customs tariff to be adopted by the National Government are the same as the rates which were discussed and provisionally agreed upon at the tariff conference in 1926 and that these are the maximum rates to be levied on British goods; furthermore, that these will remain the maximum rates on such goods for a period of at least one

[1] The alternat letter of Sir Miles W. Lampson to Dr. Wang omitted.

year from the date of enforcement of the tariff; and that two months' notice will be given of the coming into force of the said tariff.

Furthermore, I am glad to be able to confirm, on behalf of the National Government, the terms of their proclamation of the 20th July, 1927, and to give you the assurance which you request that it is their intention that goods having once paid import duty to the maritime customs in accordance with the rates imposed in the new or any subsequent national tariff will be freed as soon as possible from any levies of the nature specified in the above-mentioned proclamation.[1]

I avail, etc.

CHENGTING T. WANG.

ANNEX IV — SIR M. LAMPSON TO DR. WANG [2]

Nanking, December 20, 1928.

SIR,

I have the honor to acknowledge receipt of the note of to-day's date in which Your Excellency declares on behalf of the National Government of the Republic of China that it is their intention to apply the new customs tariff uniformly on all land and sea frontiers of China and that, as from the date of the coming into force of the new tariff, the preferential rates at present levied on goods imported or exported by land frontier will accordingly be abolished.

I have taken due note of this declaration, with which His Majesty's Government in Great Britain are in full agreement.

I avail, etc.

MILES [W.] LAMPSON.

[Exchanges of notes of even date (1) regarding the treatment of Chinese nationals in the British Dominions, India, British colonies and British protectorates and (2) regarding the import and export of goods by land between India and China, while not a part of the treaty, were published with it.]

3. Preliminary Treaty of Amity and Commerce between the Republic of China and the Kingdom of Italy [3]

Signed at Nanking, November 27, 1928; in force July, 1929

[NOTE. — The text below is the form adopted for establishing Chinese tariff autonomy with Germany and with respect to states whose customs or commercial treaties have reached the end of a 10-year

[1] The proclamation specifies "likin, native customs, coast trade duties and all other taxes on imported goods whether levied in transit or on arrival at destination."

[2] The alternat letter of Dr. C. T. Wang to Sir Miles W. Lampson omitted.

[3] The *Chinese Social and Political Science Review*, Public Documents Supplement, January, 1929, Vol. XIII, p. 13–17.

period mentioned therein. Chinese policy respecting that period is indicated in the notes exchanged with Japan printed under Appendix II, No. 2. The form of the articles and annexes respecting tariff autonomy in these preliminary treaties of amity and commerce are essentially identic except as indicated by annotations to the text. The last treaty containing provisions limiting the right of China to determine its own tariff was the treaty relating to the Chinese customs tariff, signed at the Washington Conference, which was in force for all the states listed below with the exception of Austria and Germany. In the cases where the treaties have been registered with the Secretariat of the League of Nations, the League registration number is given. The text given in the Sino-Italian treaty is employed in the following:

Austria: Treaty of commerce, signed at Vienna, October 19, 1925; in force from September 15, 1926; Reg. No. 1301.

Belgium and Luxemburg: Preliminary treaty of amity and commerce, signed at Nanking, November 22, 1928; superseding provisions of treaty of Peking, November 2, 1865 (10-year period expired October 27, 1926); in force from February 28, 1929; Reg. No. 1975.

Denmark: Preliminary treaty of amity and commerce, signed at Nanking, December 12, 1928; superseding provisions of treaty of Tientsin, July 13, 1863 (10-year period expired June 30, 1928); in force from June 12, 1929; Reg. No. 2062.

Germany: Treaty of commerce, signed at Nanking, August 17, 1928; supplements and modifies provisions of treaty of May 20, 1921; in force from January 21, 1929; Reg. No. 2057.

Italy: Preliminary treaty of amity and commerce, signed at Nanking, November 27, 1928; superseding provisions of treaty of October 26, 1866 (10-year period expired June 30, 1928); in force from July, 1929; Reg. No. .

Portugal: Preliminary treaty of amity and commerce, signed at Nanking, December 19, 1928; superseding provisions of treaty of Peking, December 1, 1887 (10-year period expired April 28, 1928).

Spain: Preliminary treaty of amity and commerce, signed at Nanking, December 27, 1928; superseding provisions of treaty of Tientsin, October 10, 1864 (10-year period expired November 10, 1927).]

ART. I.[1] The two high contracting parties agree that the customs tariff and all matters related thereto shall be regulated exclusively by their respective national legislations.

It is further agreed that each of the high contracting parties shall enjoy in the territory of the other, with regard to customs and all related matters, treatment in no way less favorable than the treatment accorded to any other country.

The nationals of each of the high contracting parties shall not be compelled, under any pretext whatever, to pay within the territories

[1] The Sino-German, Sino-Austrian and Belgian treaties are identic in meaning rather than expression.

of the other party any duties,[1] internal charges or taxes upon the importation or exportation of goods, other or higher than those paid by the nationals of the country or by the nationals of any other country.

PORTUGAL — SPECIAL CONDITIONS[2]

Annex V

Ministry of Foreign Affairs,
Nanking, December 19, 1928.

M. LE MINISTRE,

I have the honor to acknowledge the receipt of Your Excellency's note of to-day's date which reads as follows:

"With reference to Art. I of the treaty signed between us this day, I have the honor to request Your Excellency to confirm my understanding that the said article shall be interpreted to include the following principle:

"Articles produced or manufactured in the territory of either of the high contracting parties shall not be subject, on their importation into the territory of the other party or on their exportation from its own territory to the territory of the other party, to any duties, internal charges or taxes other or higher than those paid, respectively, on like articles produced or manufactured in and imported from any other country, or on like articles produced or manufactured in the country and exported to any other country."

I have the honor to confirm the correctness of the above.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) CHENGTING T. WANG.

His Excellency
Mr. JOAO ANTONIO DE BIANCHI,
Portuguese Minister to China, Nanking.

[1] The Belgian treaty, which is not uniformly identic in expression, here reads: "customs dues, transit taxes or taxes of any other kind."

[2] The *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 26. The alternat letter, which is identic, *mutatis mutandis*, is omitted.

Annex VI[1]

Nanking, December 19, 1928.

M. LE MINISTRE,

I have the honor to acknowledge the receipt of Your Excellency's note of to-day's date which reads as follows:

"Referring to the treaty signed between us this day and the annexes thereto, I have the honor to state that it is my understanding that the word 'territory' or 'territories' used in the said treaty as well as in the declarations and notes exchanged, includes the possessions and colonies of each of the high contracting parties."

I have the honor to confirm the correctness of the above.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) JOAO ANTONIO DE BIANCHI.

His Excellency
DR. CHENGTING T. WANG,
Minister for Foreign Affairs, Nanking.

[1] The alternat letter, which is identic, *mutatis mutandis*, is omitted. The text is from the *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 27.

V. EXTRATERRITORIALITY IN CHINA

1. Recommendations in the Report to the Governments of the Commission on Extraterritoriality in China. Peking, September 16, 1926 [1]

Part IV

The commissioners, having completed their investigations and having made their findings of fact as set forth in Parts I, II and III of this report, now make the following recommendations.

The commissioners are of the opinion that, when these recommendations shall have been reasonably complied with, the several powers would be warranted in relinquishing their respective rights of extraterritoriality.

It is understood that, upon the relinquishment of extraterritoriality, the nationals of the powers concerned will enjoy freedom of residence and trade and civil rights in all parts of China in accordance and with the general practice in intercourse among nations and upon a fair and equitable basis.

Recommendations

I. The administration of justice with respect to the civilian population in China must be intrusted to a judiciary which shall be effectively protected against any unwarranted interference by the executive or other branches of the Government, whether civil or military.

II. The Chinese Government should adopt the following program for the improvement of the existing legal, judicial and prison systems of China:

1. It should consider Parts II and III of this report relating to the laws and to the judicial, police and prison systems, with a view to making such amendments and taking such action as may be necessary to meet the observations there made.

2. It should complete and put into force the following laws:
   (1) Civil code.
   (2) Commercial code (including negotiable instruments law, maritime law and insurance law).
   (3) Revised criminal code.
   (4) Banking law.
   (5) Bankruptcy law.
   (6) Patent law.
   (7) Land expropriation law.
   (8) Law concerning notaries public.

[1] *Report of the Commission on Extraterritoriality in China*, 1926, p. 107.

3. It should establish and maintain a uniform system for the regular enactment, promulgation and rescission of laws, so that there may be no uncertainty as to the laws of China.

4. It should extend the system of modern courts, modern prisons and modern detention houses with a view to the elimination of the magistrates' courts and of the old-style prisons and detention houses.

5. It should make adequate financial provision for the maintenance of courts, detention houses and prisons, and their personnel.

III. It is suggested that, prior to the reasonable compliance with all the recommendations above mentioned but after the principal items thereof have been carried out, the powers concerned, if so desired by the Chinese Government, might consider the abolition of extraterritoriality according to such progressive scheme (whether geographical, partial or otherwise) as may be agreed upon.

IV. Pending the abolition of extraterritoriality, the Governments of the powers concerned should consider Part I of this report with a view to meeting the observations there made and, with the cooperation of the Chinese Government wherever necessary, should make certain modifications in the existing systems and practice of extraterritoriality as follows:

1. *Application of Chinese laws.* The powers concerned should administer, so far as practicable, in their extraterritorial or consular courts such laws and regulations of China as they may deem it proper to adopt.

2. *Mixed cases and mixed courts.* As a general rule mixed cases between nationals of the powers concerned as plaintiffs and persons under Chinese jurisdiction as defendants should be tried before the modern Chinese courts (Shen P'an T'ing) without the presence of a foreign assessor to watch the proceedings or otherwise participate. With regard to the existing special mixed courts, their organization and procedure should, as far as the special conditions in the settlements and concessions warrant, be brought more into accord with the organization and procedure of the modern Chinese judicial system. Lawyers who are nationals of extraterritorial powers and who are qualified to appear before the extraterritorial or consular courts should be permitted, subject to the laws and regulations governing Chinese lawyers, to represent clients, foreign or Chinese, in all mixed cases. No examination should be required as a qualification for practice in such cases.

3. *Nationals of extraterritorial powers.* (*a*) The extraterritorial powers should correct certain abuses which have arisen through the extension of foreign protection to Chinese as well as to business and shipping interests the actual ownership of which is wholly or mainly Chinese.

(*b*) The extraterritorial powers which do not now require compulsory periodical registration of their nationals in China should make provision for such registration at definite intervals.

4. *Judicial assistance.* Necessary arrangements should be made in regard to judicial assistance (including *commissions rogatoires*) between the Chinese authorities and the authorities of the extraterritorial powers and between the authorities of the extraterritorial powers themselves, *e.g.*:

(*a*) All agreements between foreigners and persons under Chinese jurisdiction which provide for the settlement of civil matters by arbitration should be recognized, and the awards made in pursuance thereof should be enforced, by the extraterritorial or consular courts in the case of persons under their jurisdiction and by the Chinese courts in the case of persons under their jurisdiction, except when in the opinion of the competent court, the decision is contrary to public order or good morals.

(*b*) Satisfactory arrangements should be made between the Chinese Government and the powers concerned for the prompt execution of judgments, summonses and warrants of arrest or search, concerning persons under Chinese jurisdiction, duly issued by the Chinese courts and certified by the competent Chinese authorities and *vice versa*.

5. *Taxation.* Pending the abolition of extraterritoriality, the nationals of the powers concerned should be required to pay such taxes as may be prescribed in laws and regulations duly promulgated by the competent authorities of the Chinese Government and recognized by the powers concerned as applicable to their nationals.

Signed in the City of Peking, September 16, 1926.

For the United States of America:	Silas H. Strawn
For Belgium:	A. van Cutsem
For the British Empire:	Skinner Turner
For China:	Wang Chung-Hui By signing this report my approval of all the statements contained in Parts I, II and III is not to be implied.
For Denmark:	L. P. Tillitse
For France:	G. Ch. Toussaint
For Italy:	G. de Rossi
For Japan:	Sadao Saburi
For the Netherlands:	A. D. A. de Kat Angelino
For Norway:	Johan Michelet
For Portugal:	J. A. de Bianchi
For Spain:	Manuel Acal y Marin
For Sweden:	Carl Leijohnhufvud

2. Preliminary Treaty of Amity and Commerce between the Republic of China and the Kingdom of Italy.[1] Signed at Nanking, November 27, 1928

[NOTE. — The text below is the form adopted for renouncing in principle extraterritoriality in China by those states whose customs or commercial treaties have reached the end of a 10-year period mentioned therein. Chinese policy respecting that period is indicated in the notes exchanged with Japan printed under Appendix II, No. 2, *supra*. The form of the articles and annexes respecting extraterritoriality in these preliminary treaties of amity and commerce are identic except as indicated by annotations to the text. The text given is employed in the following:

Belgium and Luxemburg: Preliminary treaty of amity and commerce, signed at Nanking, November 22, 1928; superseding provisions of treaty of Peking, November 2, 1865 (10-year period expired October 27, 1926); in force from February 28, 1929; Reg. No. 1975.

Denmark: Preliminary treaty of amity and commerce, signed at Nanking, December 12, 1928; superseding provisions of treaty of Tientsin, July 13, 1863 (10-year period expired June 30, 1928); in force from June 12, 1929; Reg. No. 2062.

Portugal: Preliminary treaty of amity and commerce, signed at Nanking, December 19, 1928; superseding provisions of treaty of Peking, December 1, 1887 (10-year period expired April 28, 1928).

Spain: Preliminary treaty of amity and commerce, signed at Nanking, December 27, 1928; superseding provisions of treaty of Tientsin, October 10, 1864 (10-year period expired November 10, 1927).]

ART. II. The nationals of each of the two high contracting parties shall be subject, in the territory of the other party, to the laws and jurisdiction of the law courts of that party,[2] to which they shall have free and easy access for the enforcement and defense of their rights.

ART. III.[3] The two high contracting parties have decided to enter as soon as possible into negotiations for the purpose of concluding a treaty of commerce and navigation based on the principles of absolute equality and nondiscrimination[4] in their commercial relations and mutual respect for sovereignty.

[1] The *Chinese Social and Political Science Review*, Public Documents Supplement, January, 1929, Vol. XIII, p. 13–17.

[2] The following clause omitted from the Belgian treaty.

[3] The same article included in the German treaty of August 17, 1928.

[4] The Belgian treaty reads: "principle of reciprocity and equality of treatment;" the German: "principle of perfect parity and equality of treatment."

Annex I[1]

Dr. C. T. Wang to Mr. Vare, the Italian Minister

Nanking, November 27, 1928.

In the name of the National Government of the Republic of China, I have the honor to state that Art. II of the treaty signed this day between China and Italy shall be understood to begin to be operative on January 1, 1930. Before such date the Chinese Government will make detailed arrangements with the Italian Government for the assumption by China of jurisdiction over Italian subjects. Failing such arrangements on the said date, Italian subjects shall be amenable to Chinese laws and jurisdiction[2] from a date to be fixed by China, after having come to an agreement for the abolition of extraterritoriality with all the powers signatory of the Washington treaties, it being understood that such a date shall be applicable to all such powers.

By "powers signatory of the Washington treaties" shall be meant those powers, other than China, which directly participated in the discussion of Pacific and Far Eastern questions in the Conference on the Limitation of Armament held in Washington in 1921–1922.[3]

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Chengting T. Wang.

Minister Vare to Dr. C. T. Wang

Nanking, November 27, 1928 (VII).

I have the honor to acknowledge the receipt of Your Excellency's note of to-day's date, which reads as follows:

[Dr. Wang's letter is repeated verbatim.]

I have the honor to state that the Italian Government is in full agreement with the above statements.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Daniele Vare.

[1] The exchange of notes is common to the treaties with Belgium, Denmark, Italy, Portugal and Spain.

[2] The Sino-Belgian exchange of notes at this point reads: "as soon as the majority of the powers now possessing extraterritorial privileges in China shall have agreed to relinquish them."

[3] This paragraph omitted from the Sino-Belgian exchange of notes.

Annex II

Declaration [1]

I have the honor to declare that on or before January 1, 1930, the Civil Code and the Commercial Code, in addition to other codes and laws now in force, will be duly promulgated by the National Government of the Republic of China.

(Signed) Chengting T. Wang.

Annex III

Declaration

In the name of the National Government of the Republic of China, I have the honor to declare that, when Italian subjects cease to enjoy the privileges of consular jurisdiction and other special privileges,[2] and when the relations between the two countries are on a footing of perfect equality, the Chinese Government, in view of the fact that Chinese citizens,[3] subject to the limitations prescribed in Italian laws and regulations, enjoy the right to live and trade and to acquire property in any part of the Italian territory, will grant the same rights to Italian subjects in China, subject to the limitations to be prescribed in its laws and regulations.

(Signed) Chengting T. Wang.

Annex IV

Joint Declaration [4]

It is understood that Italian subjects in Chinese territories and Chinese citizens in Italian territories shall hereafter pay such taxes or imposts as may be prescribed in the laws and regulations duly promulgated by the Chinese and the Italian Governments, respectively, provided that such taxes or imposts [5] are not other or higher than those paid by the nationals of any other country.

(Signed) Chengting T. Wang.
(Signed) Daniele Vare.

[1] The declaration is common to the treaties with Belgium, Denmark, Italy, Portugal and Spain.

[2] The Belgian treaty omits "and other special privileges."

[3] The Belgian treaty omits this clause.

[4] The joint declaration is common to the treaties with Denmark, Italy, Portugal and Spain. The declaration annexed to the Belgian treaty is made on behalf of Belgium only.

[5] The Belgian declaration omits "or imposts."

BELGIUM — SPECIAL STIPULATION

Joint Declaration [1]

The Chinese and Belgian Governments declare that it did not appear necessary to insert in the Sino-Belgian treaty signed this day a clause guaranteeing to Chinese citizens in Belgium and Luxemburg and to the Belgian and Luxemburg subjects in China the application of their respective national laws relating to their personal status, inasmuch as the high contracting parties recognize in a general way this principle which is based on private international law, except in the case where such laws will be contrary to the public order of the country to apply them.

(Signed) CHENGTING T. WANG.
(Signed) BARON J. GUILLAUME.

3. Chinese Note concerning Abolition of Extraterritoriality, April 27, 1929 [2]

[Identic note addressed to the British, American and French ministers in China, April 27, 1929; with slight alterations to the Brazilian, Netherlands and Norwegian legations; and in the following form delivered in Washington:]

Chinese Legation,
Washington, May 2, 1929.

SIR:

I have the honor to inform you that I am instructed by my Government to transmit to you the following note:

It may be recalled that the Chinese Government, through its representatives, had had occasion to express at the Paris Peace Conference its strong desire for the removal of limitations on China's jurisdictional sovereignty imposed upon her by the old treaties concluded between China and the foreign powers and that the Chinese delegation emphatically reiterated the same desire at the Washington conference, which placed on record its sympathetic disposition toward furthering the aspiration of China for the removal of restrictions on her political, jurisdictional and administrative freedom of action.

With the unification of China and the establishment upon a firm foundation of the national Government, a new era has been happily inaugurated in the relations between our two countries through the conclusion of the recent tariff treaty, and it is to be confidently hoped

[1] Annex III to the treaty of November 22, 1928, The *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 12.

[2] *New York Times*, May 6, 1929; the body of the note is identic with the text in the Department of State press release, September 4, 1929. The Nanking form of the text is in *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XIII, p. 64. Under date of May 2, 1929, the Chinese minister at Washington transmitted to the Secretary of State a copy of the note of April 27. See Department of State press release, September 4, 1929.

that the material well-being of our two countries will henceforth be greatly enhanced.

But it is the belief and the conviction of the Chinese Government that the promotion of such material well-being will be accelerated by a readjustment of the relations between our two countries on a basis of friendly equality in matters of jurisdiction, and if the American Government could see its way to meet the wishes of the Chinese Government and people in this regard, it is certain that another obstacle to the full and frank cooperation, in trade or otherwise, between the Chinese people and foreign nationals in this country would be happily removed and that the desire of the Chinese Government for promoting to the fullest extent the material interests of all who choose to associate themselves with our own people would find its early realization.

It goes without saying that extraterritoriality in China is a legacy of the old régime, which has not only ceased to be adaptable to the present-day conditions, but has become so detrimental to the smooth working of the judicial and administrative machinery of China that her progress as a member of the family of nations has been unnecessarily retarded. The inherent defects and inconveniences of the system of consular jurisdiction have been most clearly pointed out by the Chinese Government on various occasions, and also by the jurists and publicists of other countries in their official utterances, as well as in their academic discussions. It is a matter for sincere regret that, while many Governments which are playing an important rôle in international affairs are eager and persistent in their endeavors to promote genuine friendship and harmony among nations, such anachronistic practices as only tend to mar the friendly relations between the Chinese people and foreign nations should be allowed to exist at a time when justice and equity are supposed to govern the relations of nations.

With the close contact between China and the foreign powers, the assimilation of Western legal conceptions by Chinese jurists and the incorporation of Western legal principles in Chinese jurisprudence have proceeded very rapidly. In addition to the numerous codes and laws now in force, the civil code and the commercial code have reached the final stage of preparation and will be ready for promulgation before January 1, 1930. Courts and prisons, along modern lines, have been established, and are being established, throughout the whole country.

Inasmuch as doubt has been entertained with regard to the advisability of relinquishing extraterritorial privileges at this juncture by the interested powers, it may be pointed out that certain countries, having ceased to enjoy extraterritorial privileges in China, have found satisfaction in the protection given to their nationals by Chinese laws and have had no cause for complaint that their interests have been in any way prejudiced. The American Government may, therefore, rest assured that the legitimate rights and interests of American citizens in

China will not be unfavorably affected in the least by the relinquishment of the extraterritorial privileges which they now possess.

As the American Government has always maintained a friendly attitude toward China, and has always shown its readiness in the adoption of measures for the removal of limitations on China's sovereignty, the Chinese Government is happy to express to the American Government the desire of China to have the restrictions on her jurisdictional sovereignty removed at the earliest possible date, and confidently hopes that the American Government will take this desire of China into immediate and sympathetic consideration and favor it with an early reply so that steps may be taken to enable China, now unified and with a strong central Government, to rightfully assume jurisdiction over all nationals within her domain.

Accept, sir, the renewed assurances of my highest consideration.

CHAO-CHU WU.

Hon. HENRY L. STIMSON,
Secretary of State.

4. American Government's Reply to the Chinese Government's Note on Extraterritoriality, August 10, 1929 [1]

I have the honor to acknowledge the receipt of the Chinese Government's note of April 27 in which there are expressed the desire that the United States should relinquish the further exercise of extraterritorial jurisdiction over its citizens in China and the hope that the American Government will take this desire into immediate and sympathetic consideration.

I am directed by my Government to state that it is prepared to give sympathetic consideration to the desires expressed by the Chinese Government, giving at the same time, as it must, due consideration to the responsibilities which rest upon the Government of the United States in connection with the problem of jurisdiction over the persons and property of American citizens in China. My Government has in fact for some time past given constant and sympathetic consideration to the national aspirations of the people of China and it has repeatedly given concrete evidence of its desire to promote the realization of those aspirations in so far as action of the United States may contribute to that result. As long ago as the year 1903, in Art. 15 of the treaty concluded in that year between the United States and China, the American Government agreed that it would be prepared to relinquish the jurisdiction which it exercised over its nationals in China "when satisfied that the state of the Chinese laws, the arrangements for their administration, and other considerations warrant it in so doing." As

[1] Department of State press release, September 4, 1929. The replies of other Governments made at about the same time are understood to be of the same tenor.

recently as last year, the American Government gave very definite evidence of its desire to promote the realization of China's aspirations by concluding with the Government of China on July 25, 1928, a treaty by which the two countries agreed to the cancellation of provisions in earlier treaties whereby China's authority in reference to customs duties on goods imported into China by American nationals had been restricted.

The exercise by the United States of jurisdiction over its citizens in China had its genesis in an early agreement that, because of differences between the customs of the two countries and peoples, and differences between their judicial systems, it would be wise to place upon the American Government the duty of extending to American nationals in China the restraints and the benefits of the system of jurisprudence to which they and their fellow nationals were accustomed in the United States.

My Government deems it proper at this point to remind the Government of China that this system of American jurisdiction, as administered by the extraterritorial courts, has never been extended by the United States beyond the purposes to which it was by the treaties originally limited. Those purposes were the lawful control and protection of the persons and property of American citizens who have established themselves in China in good faith, in accordance with the terms of the treaties and with the knowledge and consent of China, in the normal development of the commercial and cultural relations between the two countries. The United States has never sought to extend its sovereignty over any portion of the territory of China.

Under the provisions of the treaty of 1844 and other agreements concluded thereafter which establish that system, American citizens have lived and have carried on their legitimate enterprises in China with benefit both to the Chinese and to themselves. They have engaged extensively in cultural and in commercial enterprises involving large sums of money and extensive properties, and, as your Government has so graciously indicated in the note under acknowledgment, there has grown up and existed between the peoples and the governments of the two countries a friendship that has endured. The American Government believes that this condition of affairs has been due in large part to the manner in which the relations between the two peoples have been regulated under the provisions of these agreements the existence of which has assured to the lives and property of American citizens in China the security so necessary to their growth and development.

For the safety of life and property, the development and continuance of legitimate and beneficial business depend in the last resort, in China as elsewhere, upon the certainty of protection from injury or confiscation, by a system of known law consistently interpreted and faithfully enforced by an independent judiciary. Where such protection fails, the life and liberty of the individual become subject to the constant

threat of unlawful attack while his property suffers the ever-present danger of confiscation in whole or in part through arbitrary administrative action. To exchange an assured and tried system of administration of justice, under which it is acknowledged that life and property have been protected and commerce has grown and prospered, for uncertainties in the absence of an adequate body of law and of an experienced and independent judiciary would be fraught with danger in both of the foregoing respects.

My Government has instructed me to say that the statement of the minister of foreign affairs of China, telegraphed to the press of the United States on July 26, to the effect that "all foreign interests in China purely for legitimate purposes will be duly respected," has been noted by it with pleasure as indicating that the Government of China has not failed to appreciate the value to its foreign relations of the factors above mentioned. My Government bids me add that it is therefore persuaded that the Government of China will concur in its belief, based as it is upon the facts set forth in succeeding paragraphs, that the sudden abolition of the system of protection by its extraterritorial courts in the face of conditions prevailing in China today would in effect expose the property of American citizens to danger of unlawful seizure and place in jeopardy the liberty of the persons of American citizens.

The Chinese Government has on several occasions during recent years expressed the desire that the powers relinquish the exercise of extraterritorial jurisdiction over their citizens. In the note under acknowledgment reference is made to the position taken at the Washington conference. It will be recalled that in pursuance of the resolution adopted at that conference, there was created a commission to inquire into the present practice of extraterritorial jurisdiction in China and into the laws and the judicial system and the methods of judicial administration of China, and that, under date of September 16, 1926, that commission made its report. This report contained an account of the conditions then prevailing in the judicial system of China as well as a number of recommendations carefully suggested as indicating the changes and improvements which would be necessary before there would be adequately developed a system of known law and an independent judiciary capable of justly controlling and protecting the lives and property of the citizens of foreign countries doing business in China. Your Government will recall that the commission on extraterritoriality which made these recommendations was composed of representatives from 13 countries including both China and the United States, and that its recommendations, thoughtfully and reasonably conceived, were unanimously adopted and were signed by all of the commissioners.

Because of its friendship for the Chinese people and its desire, to which allusion has been already made, to relinquish as soon as possible, extraterritorial jurisdiction over its own citizens in China, my Gov-

ernment has followed with attentive consideration this entire subject including particularly the progress which has been made in carrying out its recommendations since the rendition of this report. It fully appreciates the efforts which are being made in China to assimilate those western juridical principles to which your Government has referred in its note. But it would be lacking in sincerity and candor, as well as disregardful of its obligations towards its own nationals, if it did not frankly point out that the recommendations aforesaid have not been substantially carried out, and that there does not exist in China today a system of independent Chinese courts free from extraneous influence which is capable of adequately doing justice between Chinese and foreign litigants. My Government believes that not until these recommendations are fulfilled in far greater measure than is the case today will it be possible for American citizens safely to live and do business in China and for their property adequately to be protected without the intervention of the consular courts.

In conclusion, my Government has directed me to state that it observes with attentive and sympathetic interest the changes which are taking place in China. Animated as it is by the most friendly motives, and wishing as far as lies within its power to be helpful, the American Government would be ready, if the suggestion should meet with the approval of the Chinese Government, to participate in negotiations which would have as their object the devising of a method for the gradual relinquishment of extraterritorial rights either as to designated territorial areas or as to particular kinds of jurisdiction, or as to both, provided that such gradual relinquishment proceeds at the same time as steps are taken and improvements are achieved by the Chinese Government in the enactment and effective enforcement of laws based on modern concepts of jurisprudence.

VI. JAPANESE POLICY TOWARD CHINA

1. Statement of Premier Tanaka at the Oriental Conference, July 7, 1927

The maintenance of peace in the Far East and the realization of the common prosperity of Japan and China form the basic principle of Japanese policy toward China. The methods of carrying out the principle, however, may vary in its application to China proper and to Manchuria and Mongolia, in view of our special position in the Far East. The general outline of our policy toward China, which is based on this fundamental principle, may be summed up as follows:

1. Although the stabilization of the political situation and the restoration of peace and order in China constitute the crying need of the times, yet the best way to realize them is to let the Chinese people themselves undertake it. Therefore, in the present internal political conflict in that country, we should not take the side of any party or clique and should respect the popular will and strictly avoid such steps as might interfere with the contending forces.

2. We are heartily in sympathy with the legitimate national aspirations that emanate from the moderate elements in China, and we should always be ready to cooperate with them for their rational and gradual attainment through cooperation with the powers as far as possible.

At the same time, the peaceful economic development of China is a matter ardently desired equally by the Chinese and the foreign peoples and its accomplishment demands the friendly cooperation of the powers as well as the endeavors of the Chinese people themselves.

3. The aforementioned objects can be accomplished only when a stable central government is established, but, when we view the present political situation in China, we find that the establishment of such a government is no easy matter. In the existing circumstances, therefore, we have no alternative but to keep ourselves properly in touch with moderate political factors in various places for the time being and to await the development of events for the gradual unification of the country.

4. If, with the transition of the political situation, the governments of the North and South are combined or a federation of local political groups is formed, it is a matter of course that the attitude of the Japanese Government toward such different political factors will be entirely unchanged. If, under such conditions, a tendency arises toward the establishment of a unified government to deal with the foreign

relations of China, we shall welcome it, as also will the powers, and stand ready to assist in the growth of such a government.

5. It is irrefutable that the radical and destructive elements, taking advantage of the political unrest in China, may become rampant and disturb the public peace, thereby causing unfortunate international embroglios. The Japanese Government expects that the suppression of obnoxious elements and the maintenance of peace and order will be effected through the control of the Chinese authorities and the efforts of the Chinese people themselves; but, in the case of infringement of our legitimate rights and interests and the lives and property of our nationals, there will be no alternative for us but resolutely to take self-defensive measures and protect them, if necessary. Particularly, it is necessary to dispel the misapprehensions and misunderstandings of those who, on the strength of unfounded rumors concerning Sino-Japanese relations, blindly start a movement to boycott Japanese goods, and to take appropriate measures for safeguarding our rights.

6. Since Manchuria and Mongolia, particularly the three eastern provinces, have an important bearing upon the national defense and existence of this country, we must devote especial attention to those regions. We feel, moreover, particular responsibility as a neighbor for making them suitable for the residence of both Japanese and foreigners by the preservation of peace and their economic development.

The stimulus of the economic activities of Japanese and foreigners alike in both the southern and northern parts of Manchuria and Mongolia, based upon the principles of the Open Door and equal opportunity, we hold to be instrumental in accelerating the peaceful development of those regions and we should act in accordance with this principle in safeguarding our already acquired rights and interests and in solving pending questions.

7. I believe that it will be best to leave stabilization of the political situation in the three eastern provinces in their own hands. Any plan which will respect our special position in Manchuria and Mongolia and devise measures for stabilizing the political situation there will receive the due assistance of the Japanese Government.

8. If the disturbances spread to Manchuria and Mongolia and, as a result, peace and order are disrupted, thereby menacing our special position and rights and interests in those regions, we must be determined to defend them, no matter whence the menace comes, and take proper steps without loss of time in order to preserve the regions as lands for peaceful habitation and development equally to Japanese and foreigners.

2. Premier Tanaka's Statement of Policy to the Imperial Diet, January 22, 1929 [1]

[Translation issued by the Japanese Government]

Turning now to the situation in China, it is highly gratifying for this empire, which always has at heart the welfare of the Chinese people, to note that the strife and warfare which have been prevalent in China for more than 15 long years are gradually subsiding and everything now appears to point to peace. This Government are sincerely desirous that the Chinese nation, availing itself of this happy tendency in its affairs, may speedily be enabled to accomplish its great enterprise of peaceful unification. Deeply sympathizing as they do with the Chinese people, this Government are quite willing, in cooperation with the other nations having close relations with China, to lend them assistance as far as possible in their task of construction. It need hardly be pointed out that, the path of China, both at home and abroad, is being beset with difficulties, and the Chinese Government, in order to attain their aims, should more than ever be guided by counsels of self-restraint and moderation.

In speaking of our relationship with China, I feel bound to say a few words about our position in Manchuria as distinguished from the rest of China. In view of the political and strategic importance which it bears to Japan on account of its geographic contiguity with our territory, and considering the historic significance which it possesses in that region restored to China by Japan at the risk of her national existence from the aggressive grip of tsarist Russia, it is quite natural that the sentiment of the Japanese people toward Manchuria should be peculiarly keen and entirely different from that toward any other part of China. Furthermore, more than 1,000,000 Japanese subjects reside in that region to-day and Japan has many important rights and interests there. The interest and concern with which Japanese people have come to regard the affairs of Manchuria should therefore not cause the least wonder. It goes without saying that the Japanese Government will respect the sovereignty of China over Manchuria, do all in their power for the preservation of the principles of the Open Door and equal opportunity, and desire that the region be made a safe abode for both natives and foreigners. They are at the same time fully determined to take appropriate steps when a state of affairs arises in Manchuria which would disturb the local tranquillity and thus put their vital interests in jeopardy. This Government have always followed this policy in all their dealings with Manchuria.

In a word, what this Government desire in regard to China is that the two nations, mutually understanding the position of the other,

[1] Text may be found in *Japan Weekly Chronicle*, January 31, 1929, p. 118.

should be animated by the spirit of conciliation in their exchange of views and in their efforts for the settlement of various questions pending between them, so that a relationship may be restored between them that will really not only contribute to their mutual well-being, but will be conducive to the tranquillity of the Far East and eventually to the progress of world civilization.

3. Manifesto of the Japanese Cabinet, July 9, 1929[1]

[Excerpt]

Improvement of the relations between Japan and China is one of the most urgent duties confronting the new Government. The policy of friendly cooperation which Japan has for China in respect to the revision or abolition of the so-called unequal treaties was fully demonstrated on the occasions of the customs conference and extraterritoriality committee meeting.

In view of the developments of the situation in China the Government recognizes the necessity for adherence to the same policy. For the solution of the problems pending between the two nations it is imperative that the nations concerned should understand each other's position and give this due consideration and find a point of mutual harmony based on fairness and equality. It does not promote the general situation to confine one's attention to partial issues. It does not enhance the prestige of a nation to move military force without sufficient reason.

What the Government seeks consists in co-existence and co-prosperity. As to the economic relations between Japan and China, they should have free and unhindered improvement. Our Government not only rejects a policy of aggression in any part of China but is prepared to render friendly aid to China for the attainment of the national aspirations of China, but it, of course, is the responsibility of the Government to protect and preserve the legitimate rights and interests that are indispensable to Japan's existence and prosperity. The Government believes that the Chinese people understand this point fully.

The Government places importance on the cultivation of friendship with the powers and the promotion of mutual commerce and enterprises. It is not desirable that the attentions of the Government should be concentrated on domestic politics, disregarding economic relations abroad. Improvement of the trade balance should depend on peaceful progress in Japan's trade and enterprises abroad.

In view of the position Japan occupies in the family of nations it shall be the high duty of our country to participate in the activities of the League of Nations and contribute to the betterment of peace, welfare and happiness of mankind in general. The Government at-

[1] Text from *Japan Advertiser*, July 10, 1929.

taches importance to the League and pledges itself to make efforts for the attainment of the aim for which the League exists.

Regarding the armament limitation problem, the powers ought, with firm determination, to expedite the conclusion of an international agreement. Its aim and purpose should be not only the limitation of armaments but also the practical reduction of them. The sincere attitude of our empire toward this question has often been fully demonstrated, and although the attempts at the conclusion of an agreement on this question have often met with difficulties, the public demand for disarmament is now more sincere than ever and the time is steadily ripening for putting the principle of disarmament into practice.

If the powers will all consider their respective requirements sincerely and face the problems in a spirit of mutual concession, the Government does not deem it a difficult task to accomplish this, the world's great undertaking.

VII. MANCHURIA

1. Japanese Interests and Policy

a. Interests

Convention between Russia and China for the Lease of the Liaotung Peninsula

Signed at Peking, March 27, 1898[1]

[Excerpt]

Article I. For the purpose of insuring that the Russian naval forces shall possess an entirely secure base on the littoral of northern China, His Majesty the Emperor of China agrees to place at the disposal of the Russian Government, on lease, the Ports Arthur (Liouchoun-kow) and Ta-lien-wan [Dairen], together with the water areas contiguous to these ports. This act of lease, however, in no way violates the sovereign rights of His Majesty the Emperor of China to the above-mentioned territory.

Art. II. The frontier of the territory leased on the above-specified basis, will extend northward from the Bay of Ta-lien-wan [Dairen] for such distance as is necessary to secure the proper defense of this area on the land side. The precise line of demarkation and other details respecting the stipulations of the present convention will be determined by a separate protocol which shall be concluded at St. Petersburg with the dignitary Siou-tzin-ch'eng immediately after the signature of the present convention. Upon the determination of this line of demarkation, the Russian Government will enter into complete and exclusive enjoyment of the whole area of the leased territory together with the water areas contiguous to it.

Art. III. The term of the lease shall be 25 years from the date of the signature of the present agreement and may be prolonged subsequently by mutual consent of both Governments.

Art. IV. During the above-specified period, on the territory leased by the Russian Government and its adjacent water area, the entire military command of the land and naval forces and equally the supreme civil administration will be entirely given over to the Russian authorities and will be concentrated in the hands of one person who however shall not have the title of governor or governor-general. No Chinese military land forces whatsoever will be allowed on the territory specified. Chinese inhabitants retain the right, as they may

[1] MacMurray, John V. A., *Treaties and Agreements with and concerning China*, Vol. I, p. 119.

desire, either to remove beyond the limits of the territory leased by Russia or to remain within such limits without restriction on the part of the Russian authorities. In the event of a Chinese subject committing any crime within the limits of the leased territory, the offender will be handed over to the nearest Chinese authorities for trial and punishment in accordance with Chinese laws, as laid down in Art. VIII of the treaty of Peking of 1860.

ART. V. A neutral zone shall be established north of the above-specified frontier of the leased territory. The frontiers of this zone will be fixed by the dignitary Siou-tzin-ch'eng and the ministry of foreign affairs in St. Petersburg. Within this specified neutral zone the civil administration will be entirely in the hands of the Chinese authorities; Chinese troops will be admitted within this zone only with the consent of the Russian authorities.

ART. VI. Both the Governments agree that Port Arthur, as an exclusively military (naval) port, shall be used solely by Russian and Chinese vessels and shall be considered as a closed port to warships and merchant vessels of other states. As regards Ta-lien-wan [Dairen], this port, with the exception of one of the inner bays which, like Port Arthur, shall be set apart exclusively for the use of the Russian and Chinese fleets, shall be considered open to foreign commerce and free entry to it will be granted to the merchant vessels of all nations.

ART. VII. The Russian Government takes upon itself at its own expense and with its own resources to erect all buildings necessary for its fleet and land forces on the area leased to it and especially in the Ports Arthur and Ta-lien-wan [Dairen], to erect fortifications, maintain garrisons in them and generally to take all necessary steps for the proper defense of the specified locality from hostile attack. Similarly, the Russian Government binds itself at its own expense to erect and maintain lighthouses and other precautionary signs requisite for the security of navigation.

ART. VIII.[1] The Chinese Government agrees that the concessions granted by it in 1896 to the Chinese Eastern Railway Company, from the date of the signature of the present agreement shall be extended to the connecting branch which is to be built from one of the stations of the main line to Ta-lien-wan [Dairen], and also, if deemed necessary, from the same main line to another more convenient point on the littoral of the Liaotung Peninsula between the town of In-tzü and the estuary of the River Yalu. All the stipulations of the contract concluded by the Chinese Government with the Russo-Chinese Bank on August 27 (September 8), 1896, shall apply scrupulously to these supplementary branches. The direction and points through which the above-mentioned lines shall pass will be determined upon by the dignitary Siou-tzin-ch'eng and the administration of the Chinese Eastern Railway. Consent to the construction of the railway on the basis indi-

[1] The railroads referred to are now included — south of Chang-chung — in the South Manchuria Railway system.

cated shall never under any form serve as a pretext for the seizure of Chinese territory or for an encroachment on the sovereign rights of China.

Treaty of Peace between Japan and Russia

Signed at Portsmouth, September 5, 1905;[1] effective November 25, 1905

[Excerpt]

ARTICLE V. The imperial Russian Government transfer and assign to the imperial Government of Japan, with the consent of the Government of China, the lease of Port Arthur, Talien [Dairen] and adjacent territory and territorial waters and all rights, privileges and concessions connected with or forming part of such lease and they also transfer and assign to the imperial Government of Japan all public works and properties in the territory affected by the above-mentioned lease.

The two high contracting parties mutually engage to obtain the consent of the Chinese Government mentioned in the foregoing stipulation.

The imperial Government of Japan on their part undertake that the proprietary rights of Russian subjects in the territory above referred to shall be perfectly respected.

ART. VI. The imperial Russian Government engage to transfer and assign to the imperial Government of Japan, without compensation and with the consent of the Chinese Government, the railway between Chang-chun (Kuan-cheng-tsu) and Port Arthur and all its branches, together with all rights, privileges and properties appertaining thereto in that region, as well as all coal mines in the said region belonging to or worked for the benefit of the railway.

The two high contracting parties mutually engage to obtain the consent of the Government of China mentioned in the foregoing stipulation.

ART. VII. Japan and Russia engage to exploit their respective railways in Manchuria exclusively for commercial and industrial purposes and in no wise for strategic purposes.

It is understood that that restriction does not apply to the railway in the territory affected by the lease of the Liaotung Peninsula.

Treaty between China and Japan relating to Manchuria

Signed at Peking, December 22, 1905;[2] effective December 22, 1905

[Excerpt]

ARTICLE I. The imperial Chinese Government consent to all the transfers and assignments made by Russia to Japan by Arts. V and VI of the treaty of peace above mentioned.

[1] MacMurray, John V. A., *Treaties and Agreements with and concerning China*, Vol. I, p. 523.

[2] *Ibid.*, p. 550.

ART. II. The imperial Japanese Government engage that in regard to the leased territory as well as in the matter of railway construction and exploitation, they will, so far as circumstances permit, conform to the original agreements concluded between China and Russia. In case any question arises in the future on these subjects, the Japanese Government will decide it in consultation with the Chinese Government.

Treaty between China and Japan respecting South Manchuria and Eastern Inner Mongolia

Signed at Peking, May 25, 1915;[1] in force on date of signature

[Excerpt]

ARTICLE 1. The two high contracting parties agree that the term of lease of Port Arthur and Dalny and the terms of the South Manchuria Railway and the Antung-Mukden Railway shall be extended to 99 years.

Exchange of Notes respecting the Terms of Lease of Port Arthur and Dalny and the Terms of South Manchurian and Antung-Mukden Railways

Peking,
the 25th day of the 5th month of the 4th year of the Republic of China.

M. LE MINISTRE,

I have the honor to state that, respecting the provisions contained in Art. I of the treaty relating to South Manchuria and Eastern Inner Mongolia, signed this day, the term of lease of Port Arthur and Dalny shall expire in the 86th year of the Republic or 1997. The date for restoring the South Manchuria Railway to China shall fall due in the 91st year of the Republic or 2002. Art. 12 in the original South Manchurian Railway agreement providing that it may be redeemed by China after 36 years from the date on which the traffic is opened is hereby canceled. The term of the Antung-Mukden Railway shall expire in the 96th year of the Republic or 2007.

I avail, etc.,

(Signed) LU TSENG-TSIANG.

His Excellency,
HIOKI EKI,
Japanese Minister.

[1] MacMurray, *Treaties and Agreements*, etc., Vol. II, p. 1220, 1221.

Peking,
the 25th day of the 5th month
of the 4th year of Taisho.

EXCELLENCY,

I have the honor to acknowledge the receipt of Your Excellency's note of this day's date, in which you stated "that respecting the provisions contained in Art. 1 of the treaty relating to South Manchuria and Eastern Inner Mongolia, signed this day, the term of lease of Port Arthur and Dalny shall expire in the 86th year of the Republic or 1997. The date for restoring the South Manchurian Railway to China shall fall due in the 91st year of the Republic or 2002. Art. 12 in the original South Manchurian Railway agreement providing that it may be redeemed by China after 36 years from the day on which the traffic is opened, is hereby canceled. The term of the Antung-Mukden Railway shall expire in the 96th year of the Republic or 2007."

In reply I beg to state that I have taken note of the same.

I avail, etc.,

(Signed) HIOKI EKI.

His Excellency,
LU TSENG-TSIANG,
Minister of Foreign Affairs.

b. POLICY

Statement by Baron Tanaka to the Ambassadors of America, Great Britain, France and Italy, May 17, 1928 [1]

Should the life and property of foreigners residing in Peking and Tientsin be endangered, the imperial Government will not only undertake to protect Japanese residents, but will endeavor to assist in the protection of lives and properties of foreigners. Should Manchuria and Mongolia come to be involved in disturbance, the imperial Government will prevent, as much as possible, defeated troops or those in pursuit of them, questioning not whether they are southern or northern troops, from entering the territory, as such is necessary for the protection of the special position of the imperial Government in Manchuria and Mongolia.

Memorandum presented by the Japanese Minister to Marshal Chang Tso-lin, May 18, 1928 [2]

The life of the population in China is characterized by extreme unrest and distress owing to the constant disturbances there, which

[1] *Week in China*, May 19, 1928, Vol. XI, p. 11. A notice of a similar nature was also sent to Marshal Chang Tso-lin, General Chiang Kai-shek and Marshal Feng Yu-hsiang.

[2] Text furnished by Japanese embassy, Washington; also *Week in China*, May 19, 1928, Vol. XI, p. 10–11. Copies of this memorandum were also presented to General Chiang Kai-shek, Marshal Feng Yu-hsiang, and General Yen Hsi-shan either directly or through their respective representatives.

have now extended over many years; and foreign residents enjoy there no assurance of safety in the pursuit of their occupations. It is, accordingly, the earnest desire of the Chinese and foreigners alike that the disturbances should terminate, as soon as possible, in such a manner as may lead to the emergence of a united and peaceful China. Especially is this keenly hoped for by Japan, whose interests are especially and deeply involved, on account of her being China's nearest neighbor.

The disturbances, however, now threaten to spread to the Peking and Tientsin districts, and it is feared that Manchuria may also be affected.

The Japanese Government attach the utmost importance to the maintenance of peace and order in Manchuria, and are prepared to do all they can in order to prevent the occurrence of any such state of affairs as may disturb the peace and order or constitute a probable cause of such disturbance.

In these circumstances, should the disturbances develop further in the direction of Peking and Tientsin and the situation become so menacing as to threaten the peace and order of Manchuria, the Japanese Government, on their part, may possibly be constrained to take appropriate and effective steps for the maintenance of peace and order in Manchuria.

It must be noted, however, that the policy of the Japanese Government, which consists in maintaining an attitude of strict neutrality toward the contending forces, remains unchanged in every respect, and that, should the course of events be such as to render the abovementioned measure imperative, the Japanese Government will, in respect of the time and method of its adoption, exercise due care to provide against any unfair consequences arising to either of the two opposed parties.

Declaration of the Peking Government, May 25, 1928

(Official Translation) [1]

On May 18, 1928, His Excellency the Japanese Minister, Mr. Yoshizawa, expressed certain views to Marshal Chang Tso-lin which, in brief, were as follows:

[The Japanese memorandum is here summarized]

Japan's desire to see an early termination to the civil strife in this country is, in the opinion of the Chinese Government, exactly in harmony with Marshal Chang's circular telegram of May 9, 1928, advocating the cessation of hostilities, and inasmuch as such desire is motivated by friendly sentiments it is deeply appreciated by the Chinese

[1] *Chinese Social and Political Science Review*, Public Documents Supplement, Vol. XII, p. 52; *Week in China*, May 26, 1928, Vol. XI, p. 18–20.

Government. On the other hand, the Chinese Government can never agree to the proposition that should the disturbances develop further in the direction of Peking and Tientsin, so as to affect Manchuria, the Japanese Government may be constrained to adopt appropriate and effective measures to cope with the situation.

The Chinese Government hereby emphatically declares that inasmuch as Manchuria and the Peking and Tientsin area are Chinese territory, and any violation of the integrity thereof would involve China's sovereignty, it can not maintain an attitude of indifference. Whether the localities in question are peaceful or otherwise, the Chinese Government will be responsible for the safety of foreign nationals resident therein. It is therefore earnestly hoped that the Japanese Government will, in the light of the regrettable incidents in Tsinan, be dissuaded from further acts in violation of international law and usage so that the traditional friendly relations between the two countries may be preserved. A declaration to this effect was communicated to His Excellency the Japanese minister in the Waichiaopu's note of May 25, 1928.

Moreover, the action contemplated by the Japanese Government is obviously at variance with the twofold principles enunciated by the nine-power treaty concerning policies in China signed at Washington on February 6, 1922, namely, that the powers should respect China's independence and sovereignty as well as its territorial and administrative integrity and "refrain from taking advantage of conditions in China in order to seek special rights or privileges," and as such it can only be deplored by the Chinese people.

Peking, May 25, 1928.

2. Soviet Relations and Activities

a. General Relations

Agreement on General Principles for the Settlement of the Questions between the Republic of China and the Union of Soviet Socialist Republics [1]

Signed at Peking, May 31, 1924, by V. K. Wellington Koo and L. M. Karakhan; in effect from May 31, 1924

Article I. Immediately upon the signing of the present agreement, the normal diplomatic and consular relations between the two contracting parties shall be reestablished.

The Government of the Republic of China agrees to take the necessary steps to transfer to the Government of the Union of Soviet Socialist Republics the legation and consular buildings formerly belonging to the tsarist Government.

[1] League of Nations, *Treaty Series*, Vol. XXXVII, p. 176.

ART. II. The Governments of the two contracting parties agree to hold, within one month after the signing of the present agreement, a conference [1] which shall conclude and carry out detailed arrangements relative to the questions in accordance with the principles as provided in the following articles.

Such detailed arrangements shall be completed as soon as possible and, in any case, not later than six months from the date of the opening of the conference as provided in the preceding paragraph.

ART. III. The Governments of the two contracting parties agree to annul at the conference as provided in the preceding article, all conventions, treaties, agreements, protocols, contracts, etc., concluded between the Government of China and the tsarist Government and to replace them with new treaties, agreements, etc., on the basis of equality, reciprocity and justice, as well as the spirit of the declarations of the Soviet Government of the years of 1919 and 1920.

ART. IV. The Government of the Union of Soviet Socialist Republics, in accordance with its policy and declarations of 1919 and 1920, declares that all treaties, agreements, etc., concluded between the former tsarist Government and any third party or parties affecting the sovereign rights or interests of China are null and void.

The Governments of both contracting parties declare that in future neither Government will conclude any treaties or agreements which prejudice the sovereign rights or interests of either contracting party.

ART. V. The Government of the Union of Soviet Socialist Republics recognizes that Outer Mongolia is an integral part of the Republic of China and respects China's sovereignty therein.

The Government of the Union of Soviet Socialist Republics declares that, as soon as the questions for the withdrawal of all of the troops of the Union of Soviet Socialist Republics from Outer Mongolia — namely, as to the time limit of the withdrawal of such troops and the measures to be adopted in the interests of the safety of the frontiers — are agreed upon at the conference as provided in Art. II of the present agreement, it will effect the complete withdrawal of all the troops of the Union of Soviet Socialist Republics from Outer Mongolia.

ART. VI. The Governments of the two contracting parties mutually pledge themselves not to permit, within their respective territories, the existence and/or activities of any organizations or groups whose aim is to struggle by acts of violence against the Governments of either contracting party.

The Governments of the two contracting parties further pledge themselves not to engage in propaganda directed against the political and social systems of either contracting party.

ART. VII. The Governments of the two contracting parties agree to redemarkate their national boundaries at the conference as provided

[1] The conference actually took place in August, 1925, without definite results.

in Art. II of the present agreement, and, pending such redemarkation, to maintain the present boundaries.

ART. VIII. The Governments of the two contracting parties agree to regulate at the aforementioned conference the questions relating to the navigation of rivers, lakes and other bodies of water which are common to their respective frontiers on the basis of equality and reciprocity.

ART. IX. [Relates wholly to the Chinese Eastern Railway and is printed *infra*, p. 202.]

ART. X. The Government of the Union of Soviet Socialist Republics agrees to renounce the special rights and privileges relating to all concessions in any part of China acquired by the tsarist Government under various conventions, treaties, agreements, etc.

ART. XI. The Government of the Union of Soviet Socialist Republics agrees to renounce the Russian portion of the Boxer indemnity.

ART. XII. The Government of the Union of Soviet Socialist Republics agrees to relinquish the rights of extraterritoriality and consular jurisdiction.

ART. XIII. The Governments of the two contracting parties agree to draw up simultaneously with the conclusion of a commercial treaty at the conference as provided in Art. II of the present agreement, a customs tariff for the two contracting parties in accordance with the principles of equality and reciprocity.

ART. XIV. The Governments of the two contracting parties agree to discuss at the aforementioned conference the questions relating to the claims for the compensation of losses.

ART. XV. The present agreement shall come into effect from the date of signature.

[Here follow formal clauses and signatures.]

Declaration I

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics declare that immediately after the signing of the agreement on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924, they will reciprocally hand over to each other all the real estate and movable property owned by China and the former tsarist Government and found in their respective territories. For this purpose each Government will furnish the other with a list of the property to be so transferred.

[Here follow the formal clauses and signatures.]

Declaration II

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics hereby declare that it is un-

derstood that, with regard to the buildings and landed property of the Russian Orthodox Mission, belonging as it does to the Government of the Union of Soviet Socialist Republics, the question of the transfer or other suitable disposal of the same will be jointly determined at the conference provided in Art. II of the agreement on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924, in accordance with the internal laws and regulations existing in China regarding property-holding in the inland. As regards the buildings and property of the Russian Orthodox Mission belonging as it does to the Government of the Union of Soviet Socialist Republics at Peking and Patachu, the Chinese Government will take steps to immediately transfer same as soon as the Government of the Union of Soviet Socialist Republics will designate a Chinese person or organization, in accordance with the laws and regulations existing in China regarding property-holding in the inland.

Meanwhile the Government of the Republic of China will at once take measures with a view to guarding all the said buildings and property and clearing from them all the persons now living there.

It is further understood that this expression of understanding has the same force and validity as a general declaration embodied in the said agreement on general principles.

[Here follow formal clauses and signatures.]

Declaration III

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics jointly declare that it is understood that with reference to Art. IV of the agreement on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924, the Government of the Republic of China will not and does not recognize as valid any treaty, agreement, etc., concluded between Russia since the tsarist régime and any third party or parties affecting the sovereign rights and interests of the Republic of China. It is further understood that this expression of understanding has the same force and validity as a general declaration embodied in the said agreement on general principles.

[Here follow formal clauses and signatures.]

Declaration IV

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics jointly declare that it is understood that the Government of the Republic of China will not transfer either in part or in whole to any third power or any foreign organization the special rights and privileges renounced by the Government of the Union of Soviet Socialist Republics in Art. X of the agreement

on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924. It is further understood that this expression of understanding has the same force and validity as a general declaration embodied in the said agreement on general principles.

[Here follow formal clauses and signatures.]

Declaration V

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics jointly declare that it is understood that with reference to Art. XI of the agreement on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924:

(1) The Russian share of the Boxer indemnity which the Government of the Union of Soviet Socialist Republics renounces will, after the satisfaction of all prior obligations secured thereon, be entirely appropriated to create a fund for the promotion of education among the Chinese people.

(2) A special commission will be established to administer and allocate the said fund. This commission will consist of three persons, two of whom will be appointed by the Government of the Republic of China and one by the Government of the Union of Soviet Socialist Republics. Decisions of the said commission will be taken by unanimous vote.

(3) The said fund will be deposited as it accrues from time to time in a bank to be designated by the said commission.

It is further understood that this expression of understanding has the same force and validity as a general declaration embodied in the said agreement on general principles.

[Here follow formal clauses and signatures.]

Declaration VI

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics agree that they will establish equitable provisions at the conference as provided in Art. II of the agreement on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924, for the regulation of the situation created for the citizens of the Government of the Union of Soviet Socialist Republics by the relinquishment of the rights of extraterritoriality and consular jurisdiction under Art. XII of the aforementioned agreement, it being understood, however, that the nationals of the Government of the Union of Soviet Socialist Republics shall be entirely amenable to Chinese jurisdiction.

[Here follow formal clauses and signatures.]

Exchange of Notes

Peking, May 31, 1924.

DEAR MR. KARAKHAN,[1]

On behalf of my Government, I have the honor to declare that, an agreement on general principles for the settlement of the questions between the Republic of China and the Union of Soviet Socialist Republics having been signed between us to-day, the Government of the Republic of China will, in the interests of friendship between the Republic of China and the Union of Soviet Socialist Republics, discontinue the services of all the subjects of the former Russian Empire now employed in the Chinese army and police force, as they constitute by their presence or activities a menace to the safety of the Union of Soviet Socialist Republics. If you will furnish my Government with a list of such persons, the authorities concerned will be instructed to adopt the necessary action.

b. CHINESE EASTERN RAILWAY

Contract for the Construction and Operation of the Chinese Eastern Railway between Russia (Russo-Chinese Bank) and China, September 8, 1896[2]

Between the undersigned, His Excellency Shu King-chen, minister plenipotentiary of His Majesty the Emperor of China at St. Petersburg, acting by virtue of an imperial edict, dated Kuang Hsü, 22nd year, 7th month, 20th day (August 16/28, 1896), of the one part, and the Russo-Chinese Bank, of the other part, it has been agreed as follows:

The Chinese Government will pay the sum of five million Kuping taels (Kuping Tls. 5,000,000) to the Russo-Chinese Bank, and will participate in proportion to this payment in the profits and losses of the bank, on conditions set forth in a special contract.

The Chinese Government having decided upon the construction of a railway line, establishing direct communication between the city of Chita and the Russian South Ussuri Railway, intrusts the construction and operation of this railway to the Russo-Chinese Bank upon the following conditions:

1. The Russo-Chinese Bank will establish for the construction and operation of this railway a company under the name of the Chinese Eastern Railway Company.

The seal which this company will employ will be given to it by the Chinese Government. The statutes of this company will be in conformity with the Russian usages in regard to railways. The shares

[1] The reply quotes and agrees to this letter.

[2] MacMurray, *Treaties and Agreements*, etc., Vol. I, p. 74–77.

of the company can be acquired only by Chinese or Russian subjects. The president of this company will be named by the Chinese Government but paid by the company. He may have his residence in Peking.

It will be the duty of the president to see particularly to the scrupulous fulfilment of the obligations of the bank and of the railway company toward the Chinese Government; he will furthermore be responsible for the relations of the bank and of the railway company with the Chinese Government and the central and local authorities.

The president of the Chinese Eastern Railway Company will likewise be responsible for examining all accounts of the Chinese Government with the Russo-Chinese Bank.

To facilitate local negotiations, the Russo-Chinese Bank will maintain an agent at Peking.

2. The route of the line will be determined by the deputies of the president (named by the Chinese Government) of the company, in mutual agreement with the engineers of the company and the local authorities. In laying out this line, cemeteries and tombs, as also towns and villages, should so far as possible be avoided and passed by.

3. The company must commence the work within a period of 12 months from the day on which this contract shall be sanctioned by imperial decree, and must so carry it on that the whole line will be finished within a period of six years from the day on which the route of the line is definitely established and the lands necessary therefor are placed at the disposal of the company. The gauge of the line should be the same as that of the Russian railways (five Russian feet — about four feet, two and one-half inches, Chinese).

4. The Chinese Government will give orders to the local authorities to assist the company to the extent of their ability in obtaining at current prices the materials necessary for the construction of the railway, as also laborers, means of transport by water and by land, the provisions necessary for the feeding of men and animals, etc.

The Chinese Government should, as needed, take measures to facilitate such transportation.

5. The Chinese Government will take measures to assure the safety of the railway and of the persons in its service against any attack.

The company will have the right to employ at will as many foreigners or natives as it may find necessary for the purpose of administration, etc.

Criminal cases, lawsuits, etc., upon the territory of the railway, must be settled by the local authorities in accordance with the stipulations of the treaties.

6. The lands actually necessary for the construction, operation and protection of the line, as also the lands in the vicinity of the line necessary for procuring sand, stone, lime, etc., will be turned over to the company freely if these lands are the property of the state; if they belong to individuals, they will be turned over to the company either

upon a single payment or upon an annual rental to the proprietors at current prices. The lands belonging to the company will be exempt from all land taxes (*impôt foncier*).

The company will have the absolute and exclusive right of administration of its lands. (*La Société aura le droit absolu et exclusif de l'administration de ses terrains.*)

The company will have the right to construct on these lands buildings of all sorts, and likewise to construct and operate the telegraph necessary for the needs of the line.

The income of the company, all its receipts and the charges for the transportation of passengers and merchandise, telegraphs, etc., will likewise be exempt from any tax or duty. Exception is made, however, as to mines, for which there will be a special arrangement.

7. All goods and materials for the construction, operation and repair of the line, will be exempt from any tax of customs duty and from any internal tax or duty.

8. The company is responsible that the Russian troops and war material, dispatched in transit over the line, will be carried through directly from one Russian station to another without, for any pretext, stopping on the way longer than is strictly necessary.

9. Passengers who are not Chinese subjects, if they wish to leave the territory of the railway, should be supplied with Chinese passports. The company is responsible that passengers, who are not Chinese subjects, should not leave the territory of the railway if they do not have Chinese passports.

10. Passengers' baggage, as well as merchandise dispatched in transit from one Russian station to another, will not be subject to customs duties; they will likewise be exempt from any internal tax or duty. The company is bound to dispatch such merchandise except passengers' baggage in special cars, which, on arrival at the Chinese frontier, will be sealed by the office of the Chinese customs, and can not leave Chinese territory until after the office of the customs shall have satisfied itself that the seals are intact; should it be established that these cars have been opened on the way without authorization, the merchandise would be confiscated.

Merchandise imported from Russia into China by the railway, and likewise merchandise exported from China into Russia by the same route, will respectively pay the import and export duty of the Chinese maritime customs, less one-third.

If merchandise is transported into the interior it will pay in addition the transit duty — equivalent to a half of the import duty collected — which frees it from any further charge.

Merchandise not paying the transit tax will be subject to all the barrier and likin duties imposed in the interior.

The Chinese Government must install customs offices at the two frontier points on the line.

11. The charges for the transportation of passengers and of merchandise, as well as for the loading and unloading of merchandise, are to be fixed by the company, but it is obliged to transport free of charge the Chinese official letter post, and, at half price, Chinese land or sea forces and also Chinese war materials.

12. The Chinese Government transfers to the company the complete and exclusive right to operate the line on its own account and risk, so that the Chinese Government will be in no case responsible for any deficit whatsoever of the company, during the time allotted for the work and thereafter for a further 80 years from the day on which the line is finished and traffic is in operation. This period having elapsed, the line, with all its appurtenances, will pass free of charge to the Chinese Government.

At the expiration of 36 years from the day on which the entire line is finished and traffic is in operation, the Chinese Government will have the right to buy back this line upon repaying in full all the capital involved, as well as all the debts contracted for this line, plus accrued interest.

If — in case the profit realized exceeds the dividends allowed to the shareholders — a part of such capital is repaid, that part will be deducted from the price of repurchase. In no case may the Chinese Government enter into possession of this line before the appropriate sum is deposited in the Russian State Bank.

The day when the line is finished and traffic is in operation, the company will make to the Chinese Government a payment of five million Kuping taels (Kuping Tls. 5,000,000).

Kuang Hsü, 22nd year, 8th month, 2nd day. Berlin, August 27/September 8, 1896.

			Russo-Chinese Bank
(Signed)	Shu.	(Signed)	Rothstein.
		(Signed)	Prince Oukhtomsky.

Agreement on General Principles for the Settlement of the Questions between the Republic of China and the Union of Soviet Socialist Republics [1]

Signed at Peking, May 31, 1924, in effect from May 31, 1924

[Excerpt]

Article IX. The Governments of the two contracting parties agree to settle at the aforementioned conference the question of the Chinese Eastern Railway in conformity with the principles as hereinafter provided:

(1) The Governments of the two contracting parties declare that the Chinese Eastern Railway is a purely commercial enterprise.

[1] League of Nations, *Treaty Series*, Vol. XXXVII, p. 180.

The Governments of the two contracting parties mutually declare that, with the exception of matters pertaining to the business operations which are under the direct control of the Chinese Eastern Railway, all other matters affecting the rights of the national and local Governments of the Republic of China — such as judicial matters, matters relating to civil administration, military administration, police, municipal government, taxation and landed property (with the exception of lands required by the said railway) — shall be administered by the Chinese authorities.

(2) The Government of the Union of Soviet Socialist Republics agrees to the redemption by the Government of the Republic of China, with Chinese capital of the Chinese Eastern Railway, as well as all appurtenant properties, and to the transfer to China of all shares and bonds of the said railway.

(3) The Governments of the two contracting parties shall settle at the conference, as provided in Art. II of the present agreement, the amount and conditions governing the redemption as well as the procedure for the transfer of the Chinese Eastern Railway.

(4) The Government of the Union of Soviet Socialist Republics agrees to be responsible for the entire claims of the shareholders, bondholders and creditors of the Chinese Eastern Railway incurred prior to the revolution of March 9, 1917.

(5) The Governments of the two contracting parties mutually agree that the future of the Chinese Eastern Railway shall be determined by the Republic of China and the Union of Soviet Socialist Republics, to the exclusion of any third party or parties.

(6) The Governments of the two contracting parties agree to draw up an arrangement for the provisional management of the Chinese Eastern Railway pending the settlement of the questions as provided under Sec. (3) of the present article.

(7) Until the various questions relating to the Chinese Eastern Railway are settled at the conference as provided in Art. II of the present agreement, the rights of the two Governments arising out of the contract of August 27/September 8, 1896, for the construction and operation of the Chinese Eastern Railway, which do not conflict with the present agreement and the agreement for the provisional management of the said railway and which do not prejudice China's rights of sovereignty, shall be maintained.

Agreement for the Provisional Management of the Chinese Eastern Railway[1]

Signed at Peking, May 31, 1924; in effect from that date

The Republic of China and the Union of Soviet Socialist Republics mutually recognizing that, inasmuch as the Chinese Eastern Railway was built with capital furnished by the Russian Government and

[1] League of Nations, *Treaty Series*, Vol. XXXVII, p. 194.

constructed entirely within Chinese territory, the said railway is a purely commercial enterprise and that, excepting for matters appertaining to its own business operations, all other matters which affect the rights of the Chinese national and local Governments shall be administered by the Chinese authorities, have agreed to conclude an agreement for the provisional management of the railway with a view to carrying on jointly the management of the said railway until its final settlement at the conference as provided in Art. II of the agreement on general principles for the settlement of the questions between the Republic of China and the Union of the Soviet Socialist Republics of May 31, 1924, and have to that end named as their plenipotentiaries, that is to say:

His Excellency the President of the Republic of China:

Vi Kyuin Wellington Koo;

The Government of the Union of Soviet Socialist Republics:

Lev Mikhailovich Karakhan;

Who, having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following articles:

ARTICLE I. The railway shall establish, for discussion and decision of all matters relative to the Chinese Eastern Railway, a board of directors to be composed of 10 persons, of whom five shall be appointed by the Government of the Republic of China and five by the Government of the Union of Soviet Socialist Republics.

The Government of the Republic of China shall appoint one of the Chinese directors as president of the board of directors who shall also be the director-general.

The Government of the Union of Soviet Socialist Republics shall appoint one of the Russian directors as vice-president of the board of directors, who shall also be the assistant director-general.

Seven persons shall constitute a quorum, and all decisions of the board of directors shall have the consent of not less than six persons before they can be carried out.

The director-general and assistant director-general shall jointly manage the affairs of the board of directors and they shall both sign all the documents of the board.

In the absence of either the director-general or the assistant director-general, their respective Governments may appoint another director to officiate as the director-general or the assistant director-general (in the case of the director-general, by one of the Chinese directors, and in that of the assistant director-general, by one of the Russian directors).

ART. II. The railway shall establish a board of auditors to be composed of five persons, namely, two Chinese auditors, who shall be appointed by the Government of the Republic of China, and three Russian auditors, who shall be appointed by the Government of the Union of Soviet Socialist Republics,

The chairman of the board of auditors shall be elected from among the Chinese auditors.

ART. III. The railway shall have a manager, who shall be a national of the Union of Soviet Socialist Republics, and two assistant managers, one to be a national of the Republic of China and the other to be a national of the Union of Soviet Socialist Republics.

The said officers shall be appointed by the board of directors and such appointments shall be confirmed by their respective Governments. The rights and duties of the manager and the assistant managers shall be defined by the board of directors.

ART. IV. The chiefs and assistant chiefs of the various departments of the railway shall be appointed by the board of directors.

If the chief of department is a national of the Republic of China, the assistant chief of department shall be a national of the Union of Soviet Socialist Republics, and if the chief of department is a national of the Union of Soviet Socialist Republics, the assistant chief of department shall be a national of the Republic of China.

ART. V. The employment of persons in the various departments of the railway shall be in accordance with the principle of equal representation between the nationals of the Republic of China and those of the Union of Soviet Socialist Republics.

ART. VI. With the exception of the estimates and budgets, as provided in Art. VII of the present agreement, all other matters on which the board of directors cannot reach an agreement shall be referred for settlement to the Governments of the contracting parties.

ART. VII. The board of directors shall present the estimates and budgets of the railway to a joint meeting of the board of directors and the board of auditors for consideration and approval.

ART. VIII. All the net profits of the railway shall be held by the board of directors and shall not be used pending a final settlement of the question of the present railway.

ART. IX. The board of directors shall revise as soon as possible the statutes of the Chinese Eastern Railway Company, approved on December 4, 1896, by the tsarist Government, in accordance with the present agreement and the agreement on general principles for the settlement of the questions between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924, and, in any case, not later than six months from the date of the constitution of the board of directors.

Pending their revision, the aforesaid statutes, in so far as they do not conflict with the present agreement on general principles for the settlement of the questions between the Republic of China and the Union of Soviet Socialist Republics, and do not prejudice the rights of sovereignty of the Republic of China, shall continue to be observed.

ART. X. The present agreement shall cease to have effect as soon as the question of the Chinese Eastern Railway is finally settled at the

conference as provided in Art. II of the agreement on general principles for the settlement of the questions between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924.

ART. XI. The present agreement shall come into effect from the date of signature.

[Here follow formal clauses and signatures.]

Declaration VII

The Government of the Republic of China and the Government of the Union of Soviet Socialist Republics, having signed the agreement on general principles between the Republic of China and the Union of Soviet Socialist Republics of May 31, 1924, hereby agree, in explanation of Art. V of the agreement for the provisional management of the Chinese Eastern Railway of the same date, which provides for the principle of equal representation in the filling of posts by citizens of the Republic of China and those of the Union of Soviet Socialist Republics, that the application of this principle is not to be understood to mean that the present employees of Russian nationality shall be dismissed for the sole purpose of enforcing the said principle. It is further understood that access to all posts is equally open to citizens of both contracting parties, that no special preference shall be shown to either nationality and that the posts shall be filled in accordance with the ability and technical as well as educational qualifications of the applicants.

[Here follow formal clauses and signatures.]

Agreement entered into between the Autonomous Government of the Three Eastern Provinces of the Republic of China and the Government of the Union of Soviet Socialist Republics[1]

Signed at Mukden, September 20, 1924; in force from September 20, 1924

The Autonomous Government of the Three Eastern Provinces of the Republic of China and the Government of the Union of Soviet Socialist Republics, desiring to adjust the various problems concerning mutual rights and privileges, have agreed to conclude an agreement, and have to that end named as their plenipotentiaries, that is to say:

The Autonomous Government of the Three Eastern Provinces of the Republic of China: Cheng Chien, Lü Jung Huan and Chung Shih Ming;

The Government of the Union of Soviet Socialist Republics: Kuznetzov;

[1] *L'Europe nouvelle*, Special Edition No. 3, September 5, 1925, p. 54.

Who, having communicated to one another their respective full powers found to be in good and due form, have agreed upon the following articles:

ARTICLE I. The Governments of the two contracting parties agree to settle the question of the Chinese Eastern Railway as follows:

(1) (Repeats Art. IX, 1, of Sino-Soviet agreement on general principles, May 31, 1924.)

(2) That part of this agreement, which pertains to the Chinese Eastern Railway, shall cease to have effect as soon as an agreement has been reached between the two contracting parties in regard to the redemption by China of this railway, or upon the expiration of the period mentioned in Item 13 of Art. 1 of this agreement, when the railway will be returned to China.

(3) (Repeats Art. VI of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

(4) (Repeats Art. VII of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

(5) (Repeats Art. IX, 5, of Sino-Soviet agreement on general principles, May 31, 1924.)

(6) The contract of August 27 (September 8), 1896, for the construction and operation of the Chinese Eastern Railway shall be revised within four months after the signing of this agreement by a commission to be appointed by the two contracting parties, in accordance with the articles herein contained. Until the said contract is revised, the rights of the two Governments arising therefrom, which do not conflict with this agreement nor prejudice China's rights of sovereignty, shall be maintained.

(7) (Repeats Art. II of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

(8) The Government of the Union of Soviet Socialist Republics agrees to the settlement of the question of the indebtedness of the Chinese Eastern Railway Company, by a commission to be appointed by the two contracting parties, in accordance with Item 4 of Art. IX of the Sino-Russian agreement on general principles signed at Peking on May 31, 1924.

(9) All the net profits of the railway shall be held by the board of directors and shall not be used before the question as to how to divide these profits between the two contracting parties is settled by a commission to be appointed by the two Governments.

(10) (Repeats Art. IX of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

(11) (Repeats Art. IV of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

(12) (Repeats Art. V. of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

NOTE. — In carrying out the aforesaid principle of equal representation, the regular operation of the railway and the progress of its affairs

shall in no wise be hampered and hindered. That is, the appointment of officers of both nationalities shall be governed by the consideration of their experience, character and qualifications.

(13) The concession period of 80 years mentioned in Art. 12 of the contract of August 27 (September 8), 1896, for the construction and operation of the Chinese Eastern Railway shall be reduced to 60 years, upon the expiration of which the line with all its appurtenances will pass free of charge to the Chinese Government.

The question of further reducing the aforementioned period of 60 years may be taken up for consideration with the approval of the two contracting parties.

The Union of Soviet Socialist Republics agrees, upon the signing of this agreement, to the redemption by China of the said railway with Chinese capital, the actual and fair cost of which to be fixed by the two contracting parties.

(14) (Repeats Art. III of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

(15) (Repeats Art. I of Sino-Soviet agreement on Chinese Eastern Railway, May 31, 1924.)

ART. II. (Repeats Art. VI of Sino-Soviet agreement on general principles, May 31, 1924.)

ART. III. The two contracting parties agree to settle the question relating to the navigation, by their respective ships of all kinds, of rivers, lakes and other bodies of water which are common to their respective frontiers, on the basis of equality and reciprocity; the details of which question shall be fully regulated within two months after the signing of this agreement by a commission to be appointed by the two contracting parties. Inasmuch as the passenger and freight traffic on the Lower Amur down to its mouth and on the Sungari up to Harbin are questions concerning momentous privileges on the part of the Republic of China and on that of the Union of Soviet Socialist Republics respectively, the two contracting parties agree to authorize the said commission to discuss these questions with a view to preserving their respective privileges in accordance with the principles of equality and reciprocity.

ART. IV.[1] The various commissions provided in the foregoing articles shall begin to officiate within one month after the signing of this agreement, and all questions shall be settled by them as soon as possible, and in any case, except where time has been fixed in the foregoing articles, not later than six months.

ART. V. (Repeats Art. VII of Sino-Soviet agreement on general principles, May 31, 1924.)

ART. VI. (Repeats Art. XIII of Sino-Soviet agreement on general principles, May 31, 1924.)

[1] Compare Art. II of the agreement on general principles.

c. Dispute over Chinese Assumption of Railway Control and Communist Activities [1]

The Soviet Acting Commissar to the Chinese Chargé d'Affaires at Moscow, July 13, 1929 [2]

By the instruction of the Government of the Union of Soviet Socialist Republics we request to inform the Mukden Government and the National Government of Nanking the following:

According to information received by the Government of the U. S. S. R. the Chinese authorities of Harbin have raided on the morning of July 10 the Chinese Eastern Railway and seized the telegraph of the latter along the whole line interrupting thereby the telegraph communication with the U. S. S. R. and have closed and sealed without explaining the reasons the Trade Mission of the U. S. S. R. as well as the branches of the Gostorg, Textile Syndicate, Naphtha Syndicate and the Soviet Merchant Marine. The *tupan* of the railway, Mr. Lu Chung-huang, has submitted to the manager of the railway, Mr. Emshanov, the demand to hand over the management of the railway to the person appointed by the *tupan*. When Manager Emshanov refused to comply with this unlawful demand, which presents a gross violation of the agreement regarding the provisional management of the Chinese Eastern Railway concluded in Peking on May 31, 1924, as well as the agreement concluded between the Government of the U. S. S. R. and the Government of the Autonomous Three Eastern Provinces of the Chinese Republic concluded in Mukden on September 20, 1924, he was removed from the performance of his duties as well as the assistant manager, Mr. Eismont. Both were then replaced by persons appointed by the *tupan*. The chiefs of the rolling stock and traffic divisions and other persons by the order of the same *tupan* were removed and replaced mostly by Russian white guards. Along the entire line of the railway there have been closed and suppressed the trade union and cooperative organizations of the workers and employees of the railway, also many searches and arrests have taken place, and over 200 Soviet citizens, workers and employees of the railway, were arrested. Sixty Soviet citizens including the manager of the railway Emshanov and the assistant manager Eismont have already been sent out from the territory of China.

Simultaneously there have been received reports about the concentration along the Soviet border of Manchurian troops which were

[1] The correspondence given is a selection intended to make the issues clear to the reader. The Soviet note of May 31 discussing the raid on Soviet consulate general at Harbin; the note of Hsia Wei-sung, Chinese chargé d'affaires at Moscow, dated July 17, replying to the Soviet note of July 13; and the National Government's circular manifesto of July 19 are omitted. *Cf. L'Europe nouvelle*, August 3, 1929, p. 1077; *New York Times*, July 22, and *Week in China*, July 27, p. 591.

[2] *Week in China*, July 20, 1929, p. 566; *L'Europe nouvelle*, August 3, 1929, p. 1078.

put on a war footing and moved to the very border. According to information received here together with the Manchurian troops concentrated on the border of the U. S. S. R. there are also located Russian wnite guard detachments which the Manchurian command intends to throw across the Soviet border.

The above actions represent most obvious and grossest violations of clear and unequivocal clauses of agreements concluded between the U. S. S. R. and China. These violations will not become less atrocious for the reason that the *tupan* of the railway in his announcement himself refers to the duty of the representatives of both parties on the railway to strictly observe the agreements, attempting to mask his openly illegal actions by this reference.

As is clear from Art. I of the agreement about the provisional management of the Chinese Eastern Railway of May 31, 1924, and from the analogous Art. I, clause 6, of the Mukden agreement all questions relating to the Chinese Eastern Railway are to be discussed and settled by the board of directors of 10 persons, and "decisions of the board of directors are to become effective if approved by not less than six members of the board." The chairman of the board of directors, being a Chinese citizen, and the vice-chairman, a Soviet citizen, "jointly supervize the affairs of the board of directors and both sign all the documents of the latter."

Thus, the very fact of the issuance by the *tupan* of the one-sided order over his single signature and without coordinating his action either with the board of directors or with his assistant, who is a Soviet citizen, makes this act of his obviously unlawful, not to mention the fact that this act absolutely violates the principle of parity established by the Soviet-China agreements.

According to Art. III of tne same Peking agreement and Art. I, clause 8, of the Mukden agreement, "the management of the railway devolves upon the manager, a citizen of the U. S. S. R., and two assistant managers of whom one must be a citizen of the U. S. S. R. and the other a citizen of the Chinese Republic. The above officials are appointed by the board of directors and confirmed by the respective Governments." Their rights and duties are determined by the board of directors who appoint also chiefs and assistant chiefs of various departments of the railway.

Thus, the dismissal of the manager of the railway by the order of the *tupan* and his replacement even temporarily by a Chinese citizen as well as the arbitrary dismissal of the assistant manager and a number of other officials of the railway violates the basic clauses of the agreements of 1924 and radically changes the system of the management of the railway which had been established by the agreements between the Governments of the U. S. S. R. and China and recorded in the agreements effective between the two countries. This wholly unjustifiable violation is the more atrocious since, as follows from the

articles of the agreements quoted above, the appointment and consequently the dismissal of the above officials is the prerogative of the board of directors as a whole and can not be done otherwise, in particular by one-sided personal orders of the *tupan* of the railway.

The *tupan* in his announcement refers to the order issued by him to Manager Emshanov regarding the putting into effect of a number of demands of the Chinese side concerning the manner of the management of the railway. The manager of the railway, however, is the executive organ of the entire board of directors as a whole and can not carry out orders of the *tupan* or his assistant if they are not issued from the board of directors itself over the signatures of the chairman and his assistant as required by Art. I, clause 6, of the Soviet-Mukden agreement of 1924. The very reference to the non-compliance by the manager of the railway with the personal orders of the *tupan* only confirms the illegal character of the *tupan's* actions.

According to the spirit and letter of the Peking and Mukden agreements of 1924 the Chinese Eastern Railway is an object of joint management between the U. S. S. R. and China, and the Chinese Eastern Railway may become the property of China either upon the expiration of the time fixed by the agreement or before the expiration of the time by the redemption of the railway by China by the agreement of both parties. The above-stated illegal actions of the *tupan* of the Chinese Eastern Railway sanctioned by the Chinese Government mean in effect seizure of the railway and an attempt of one-sided cancellation of existing agreements.

Agreements of 1924 establish a quite definite procedure of the regulation of all disputable questions concerning the railway. According to Art. VI of the agreement of May 31, 1924, signed at Peking and Art. I, clause 2, of the Mukden agreement, "all questions on which the board of directors can not come to agreement must be submitted for consideration to the Governments of the contracting parties for just and friendly settlement." Each of the parties has, thus, full opportunity to raise before the other party any question in a quite lawful and normal manner and to endeavor to have its demands realized. However, the Chinese side in this case as in some preceding cases, as for instance the recent seizure of the telephone station, preferred the path of one-sided and unlawful actions which not only violate but destroy the agreements existing between U. S. S. R. and China.

Stating that the above actions of the *tupan* of the Chinese Eastern Railway constitute a gross violation of the existing agreements between the U. S. S. R. and China, the Government of the U. S. S. R. enters the most emphatic protest regarding these actions and draws the attention of the Mukden Government and the National Government of the Chinese Republic to the extreme seriousness of the situation created by these actions.

The Government of the Soviet Union has given repeated proofs of

its peacefulness and friendly attitude toward China and toward the struggle for equal treaties and the restoration of the sovereignty of China. The Government of the U. S. S. R. had at its own initiative already in 1919 addressed a declaration to the Chinese people in which it declared its readiness to abolish all unequal treaties made between China and tsarist Russia. In the agreement of 1924 the Government of U. S. S. R. has put into effect all its declarations. The Government of the U. S. S. R. had voluntarily renounced in favor of China its concessions in Tientsin and Hankow. It had voluntarily renounced consular jurisdiction, extraterritoriality, for its citizens living in China. At its own initiative it had renounced the Boxer indemnity, turning it over to the cause of education of the Chinese people. Lastly, it also voluntarily renounced all those privileges which were granted Russia on the Chinese Eastern Railway, namely, the right to have in China its troops, police courts and other military administrative functions which until then had been the prerogative of the Russian authorities on the Chinese Eastern Railway and along the entire right of way of this railway. The renouncing of all the privileges which foreign Governments still enjoy, with whom China maintains normal relations, was the manifestation of the socialist character of the foreign policy of the Soviet state. The conclusion of the agreement of 1924 between the U. S. S. R. and China was met with the greatest sympathy in all parts of China, for this agreement for the first time realizes the principle of equality of the parties and the full sovereignty of China.

From the above it follows that if the Chinese authorities had any claims in regard to the order established on the railway or even in regard to the rights on the railway established by the agreements, including the reduction of the time limit of the agreement and the redemption of the railway before the expiration of the time limit, these authorities had the full opportunity provided by the agreements to submit any claim to the Government of the U. S. S. R. in a legal manner.

The Government of the U. S. S. R. states that in questions concerning the Chinese Eastern Railway it has invariably manifested its readiness for the friendly regulation of any disputable questions. As recently as February 2, 1929, in the note handed by the consulate general of the U. S. S. R. at Mukden to the Central Diplomatic Department of the Three Eastern Provinces of the China Government, the U. S. S. R. declared that it "considers it extremely desirable that all disputable issues and particularly questions concerning the order of things on the railway which remained unsolved during past years and which has caused misunderstandings and complicated the normal work of the railway should be considered and settled for the purpose of removing possible misunderstandings and conflicts." This proposal, which testifies to what extent the Government of the U. S. S. R. has been ready to meet the reasonable wishes of the Chinese side enabled the Chinese Government to submit for consideration any of the questions

which interested it. The Chinese side, however, did not wish to take advantage of the opportunity which the proposal of the Soviet Government of February 2, 1929, offered, and this proposal has remained unanswered. Similarly, there was no answer to the telegram sent July 11, 1929, and signed by the people's commissar of ways of communications. This telegram, addressed to the chairman of the board of directors of the Chinese Eastern Railway, Lu Chung-huang, declared the readiness to immediately discuss all outstanding issues, informing the chairman of the board of directors of the railway that Mr. Serebriakov, member of the collegium of the commissariat of ways of communication, has been intrusted by the latter to conduct these negotiations.

All these facts exhaustively testify to the complete ineptness of the references made by the *tupan* of the railway in his above-stated announcement to the alleged fruitless attempts of the Chinese side to readjust the outstanding issues mentioned above.

The policy of friendly and peaceful solution of all outstanding issues and the policy of respect for the sovereign rights of China which constitutes a radical negation of the basis of the imperialist policy of bourgeois countries, the present Chinese authorities are apparently inclined to regard not as a policy derived from the very nature of Soviet power but as a manifestation of its weakness. This is evidently the reason why the Chinese authorities allow themselves a number of grossly violent and provocative actions toward the U. S. S. R., abusing the latter's peacefulness. The Government of the U. S. S. R. is therefore compelled to remind the Chinese authorities that it possesses sufficient means necessary to protect the lawful rights of the peoples of the U. S. S. R. against any violent attempts.

Remaining true to its peaceful policy the Soviet Government, notwithstanding the violent and provocative actions of the Chinese authorities, once more expresses its willingness to enter into negotiations with China regarding all questions connected with the Chinese Eastern Railway. Such negotiations, however, are possible only provided the Chinese authorities carry out the immediate release of the arrested citizens of the U. S. S. R. and the cancellation of all their illegal orders.

The Soviet Government accordingly proposes the following: 1, To call immediately a conference to regulate the questions connected with the Chinese Eastern Railway; 2, The Chinese authorities shall immediately cancel all the arbitrary orders regarding the Chinese Eastern Railway; 3, All arrested Soviet citizens are to be immediately released and the Chinese authorities shall cease all persecution of Soviet citizens and Soviet institutions.

The Soviet Government proposes to the Mukden Government and to the National Government of the Chinese Republic to weigh the serious consequences which the rejection of these proposals will have.

The Government of the U. S. S. R. declares that it will wait three days for the answer of the Chinese Government to the proposal stated

above and warns that in the event of not receiving a satisfactory reply it will be compelled to resort to other means for the protection of the lawful rights of the U. S. S. R.

KARAKHAN.

The Soviet Acting Commissar to the Chinese Chargé d'Affaires at Moscow, July 18, 1929[1]

Confirming the receipt of your note of July 17[2] containing the answer of the Chinese Government at Nanking to the note of the U. S. S. R. Government of July 13, I have the honor to advise you on behalf of the Government of the U. S. S. R. of the following:

The Government of the U. S. S. R. considers the reply of the Chinese Government as unsatisfactory in content and hypocritical in tone.

Desirous of reestablishing the legal basis in the relations between the U. S. S. R. and China which have been disturbed by the Chinese authorities, the Government of the U. S. S. R. has advanced in its note of July 13 three absolutely necessary and perfectly moderate proposals:

1. The cancellation of one-sided and entirely unlawful actions of the Chinese authorities on the Chinese Eastern Railway which are violating the existing relations between the U. S. S. R. and China;

2. The cessation of repressions against Soviet citizens and Soviet institutions;

3. The convocation of a conference by both sides to regulate all questions connected with the Chinese Eastern Railway.

The Chinese Government in its reply to the proposal of the U. S. S. R. has essentially rejected these proposals.

Instead of the restoration of the Peking and Mukden agreements which has been abolished by one-sided action of the Chinese authorities and retaining the basis for neighborly relations, the note of the Chinese Government sanctions the one-sided abolishing of this agreement and thereby destroys the possibility of normal relations between two states.

Instead of reversing the unlawful actions of the *tupan* of the Chinese Eastern Railway who has violently removed from office official persons appointed by the administration and by the request of the U. S. S. R., the note of the Chinese Government sanctions these unlawful actions justifying thereby the seizure of the Chinese Eastern Railway.

Instead of the discontinuation of the unlawful repressions against Soviet citizens and Soviet institutions the note of the Chinese Government sanctions these repressions and hypocritically attempts to justify them by the false reference to some mass repressions against Chinese citizens in the U. S. S. R., being well aware that repressions in the U. S. S. R. are being applied only against an insignificant group of spies, opium traders, den keepers, smugglers and other criminal elements among the Chinese citizens.

[1] *Week in China*, July 20, 1929, p. 572.

[2] See *L'Europe nouvelle*, August 3, 1929, p. 1080.

Instead of a direct agreement for an immediate convocation of a conference by the two parties to regulate all controversial questions, the note of the Chinese Government evades this question, rejecting thereby the proposal of the U. S. S. R. for a conference and destroying the possibility of regulating the dispute by agreement of the two parties.

The reference of the note of the Chinese Government to propaganda as the cause of the unlawful actions of the Chinese authorities is false and hypocritical, for the Chinese authorities possess on their territory sufficient means to prevent and to stop such activity had it actually taken place without seizing the Chinese Eastern Railway and severing the treaty relations existing between China and the U. S. S. R.

The real reason for the violent actions of the Chinese authorities on the Chinese Eastern Railway and the sanctioning of the violence by the Chinese note of July 17 becomes particularly clear from the official declaration of the head of the Chinese state, Mr. Chiang Kai-shek, published in the press. In this declaration, Mr. Chiang Kai-shek speaking of the unlawful actions of the Chinese authorities on the Chinese Eastern Railway and justifying these actions plainly declares: "Our steps to take over the Chinese Eastern Railway contain nothing unusual. . . . We want first to take hold of the Chinese Eastern Railway, then to take up the discussion of all other questions." This statement of Mr. Chiang Kai-shek leaves no doubt as to the real meaning of the note of the Chinese Government of July 17.

In view of the above, the Government of the U. S. S. R. notes that the means necessary to regulate amicably the controversies and disputes on the Chinese Eastern Railway caused by the Chinese authorities and aggravated by the note of the China Government of July 17 have been exhausted.

On the basis of the above facts the Government of the U. S. S. R. is compelled to take the following measures, placing the entire responsibility for the consequences upon the Chinese Government:

1. To recall all Soviet diplomatic, consular and commercial representatives from the territory of China;

2. To recall all persons appointed by the Government of the U. S. S. R. on the Chinese Eastern Railway from the territory of China;

3. To suspend all railway communications between China and the U. S. S. R.;

4. To order the diplomatic and consular representatives of the Chinese Republic in the U. S. S. R. to leave immediately the territory of the U. S. S. R.

At the same time the Government of the U. S. S. R. declares that it reserves all rights arising from the Peking and Mukden agreements of 1924.

KARAKHAN.

Communication of the National Government of the Republic of China to the Signatories of the Treaty for the Renunciation of War [1]

On the 27th of May, 1929, the police headquarters of the Harbin Special Area, having received reliable reports that a propaganda conference of the Third Internationale (Comintern) was to be held at the local Soviet consulate between 12 noon and 3 P.M. on that day, detailed a special force to conduct a search of the consulate premises. Over 80 persons attended the conference, and all were placed under arrest. Forty-two are members of the Soviet consulate — such as Melnikov, the Soviet consul general; Znaminsky, the Soviet vice consul; and Kuznetzov, the Soviet consul general at Liaoning (Mukden). Thirty-nine are important officials of the Chinese Eastern Railway, members of the Chinese Eastern Railway Labor Union, the Soviet Central Commercial Federation, the Soviet Mercantile Shipping Bureau, the Soviet Far Eastern Petroleum Bureau, and the Soviet Far Eastern National Trading Bureau, and communist leaders of the Harbin Special Area, Chita, Harborovsk and other centers along the same railway. Of these the most important leaders are Zimbarevich, manager of the Far Eastern National Trading Bureau; Taranov, inspector of the Mercantile Shipping Bureau, and Stankevich, member of the commercial department of the Chinese Eastern Railway. All three are members of the North Manchuria executive committee under the direct control of Harborovsk. This committee supervises the Chinese Eastern Railway Labor Union, the Young Men's Communist Group, the Boys' and Women's Communist Groups, and other organizations.

Various documents and evidence of plots and conspiracy, as well as propaganda material, were discovered. Thirty-nine were taken to the police headquarters for detention and cross-examination. Melnikov and the other members of his staff were permitted to remain in the consulate while Kuznetzov was escorted back to Liaoning.

A thorough examination of the arrested persons and the documents discovered in the premises revealed the fact that the Union of Soviet Socialist Republics was not only conducting communist propaganda in China but was actually pushing forward its secret plans to nullify China's unification, to overthrow the Chinese Government, to organize secret forces for destroying the Chinese Eastern Railway, and to carry out a policy of wholesale assassinations and thereby bring about a world-wide revolution. What is more, the Chinese Eastern Railway and the Soviet state enterprises and organizations were being utilized as bases for carrying out the nefarious schemes of the Union of Soviet Socialist Republics.

In order to preserve peace and order and to nip the menace in the bud, the local authorities felt compelled to adopt precautionary measures. On July 10, 1929, they dissolved the labor union of the Chinese

[1] Reprinted from Department of State release.

Eastern Railway, the Young Men's Communist Group and the Boys' and Women's Communist Groups, and sealed up the offices of the Soviet Far Eastern National Trading Bureau, the Soviet Far Eastern Petroleum Bureau, the Soviet Mercantile Shipping Bureau and the Soviet Central Commercial Federation. At the same time Emshanov and Ezementov, Soviet manager and assistant manager, respectively, of the Chinese Eastern Railway, as well as 60 important communist leaders of the Labor Union were dismissed and taken to the frontier, owing to their abuse of the special position in the railway and their participation in the plots and conspiracy against the safety of the railway.

Art. VI of the Sino-Soviet agreement of 1924 provides as follows:

"The Governments of the two contracting parties mutually pledge themselves not to permit within their respective territories the existence and/or activities of any organizations or groups whose aim is to struggle by acts of violence against the Governments of either contracting party.

"The Governments of the two contracting parties further pledge themselves not to engage in propaganda directed against the political and social systems of either contracting party."

The facts being as above stated, it is clear that the Union of Soviet Socialist Republics has violated the entire treaty stipulation. Since the Soviet manager and assistant manager and other important officials of the Chinese Eastern Railway as well as the Labor Union and other unions of the railway and other Soviet state enterprises and organizations have not only carried on propaganda directed against the political and social system of China, but also conspired to overthrow the Chinese Government, to destroy the Chinese Eastern Railway and to perpetrate other outrages, the Chinese Government was constrained by the urgency of the situation to maintain the integrity of the agreement and adopt precautionary measures in pursuance of the treaty undertaking of the two Governments that they would not "permit within their respective territories the existence and/or activities of any organizations or groups whose aim is to struggle by acts of violence against the Governments of either contracting party." And since these precautions are justified by the above-cited precedent, the Chinese Government was under no obligation to consult the Soviet Government beforehand, nor was it able so to do. The action taken against the Soviet manager and assistant manager of the Chinese Eastern Railway in consequence of their participation in the above-mentioned plots is amply warranted by the same treaty provisions and has no connection whatever with the question of the right of administrative control over the railway.

Moreover, ever since 1927 repeated Soviet attempts have been unearthed in northern and southern China to conduct communist propaganda from the vantage points of the Soviet embassy, consulates and state enterprises and organizations, to use the revenue of the Chinese Eastern Railway for supplying funds to the counter-

revolutionary elements in China, to overthrow the Chinese Government and to destroy China's political and social system. The documents and evidence found recently in the Soviet consulate at Harbin establishes the further fact that important Soviet officials of the Chinese Eastern Railway are important communist leaders for conducting such propaganda. Under the cover of their special status as railway employees and relying upon the support of the Labor Union to tighten their hold upon the railway, they have conspired to obstruct the smooth working of the Chinese Eastern Railway, sacrificed its true interests and endangered the safety of China.

Confronted by these accumulated facts and evidence the Chinese Government can not but feel the gravest concern for the future of the railway. It can only wait for the Soviet Government to awake to a full realization of that Government's responsibility and together with it to devise a fundamental solution in connection with the provisions of their agreement, so that a recurrence of the attempt by Soviet nationals to abuse their employment in the railway and reenact the same incidents as those recently discovered may be obviated and the safety of the railway preserved. In that way communications between Europe and Asia may be maintained uninterruptedly.

The precautionary measures adopted by the Chinese Government had been called forth by the conspiracy of the Soviet manager and assistant manager and other important employees of the Chinese Eastern Railway and other Soviet state groups acting in direct violation of Art. VI of the agreement of 1924. Yet in the note dated July 13 received from the Soviet Government, the measures adopted by the Chinese Government in pursuance of the above-mentioned agreement were characterized as calculated to abrogate the existing agreement and to seize the Chinese Eastern Railway. In addition, the precautions adopted by China to combat the plots of the employees of the railway acting in violation of the agreement were purposely lumped together with the question of the administrative control over the railway so as to whitewash the illegal acts of officials of the Soviet Government, the railway and other state groups and organizations and thereby disclaim the responsibility of treaty violation. Furthermore, in utter disregard of the actual facts, a reply was demanded to be given within a stated number of days.

The Soviet Government was well aware that the Soviet employees had been removed from their posts because of their acts in contravention of the agreement and yet it demanded that China restore the status quo. The Soviet Government was well aware that the 39 communists had been arrested because of their conspiring in the Harbin Soviet consulate to conduct Soviet propaganda against China's own safety, and yet it demanded their release. Finally, the Soviet Government insisted on satisfaction being given to its proposals, although unjustified by the facts, as a condition for holding a conference to settle the various outstanding questions in connection with

the Chinese Eastern Railway and thus compel the Chinese Government into adopting a defensive position.

In conformity with its traditional, peaceful and liberal policy, however, the Chinese Government replied on the 17th of the same month according to the actual facts of the case. The language of China's reply was couched in all sincerity and it was hoped that the Soviet Government would realize its mistakes and make amends for its improper acts. Moreover, in response to the Soviet suggestions that the Chinese chargé d'affaires in Moscow be authorized to settle the outstanding questions in connection with the Chinese Eastern Railway, the Chinese Government stated that it would instruct its chargé d'affaires to return to Moscow and discuss with the Soviet Foreign Office a reasonable and legal solution of such questions.

Unfortunately the Soviet Government chose to persist in its arrogant attitude and employ misrepresentation for whitewashing the actual facts. On the 18th of July, it declared, first, that it would recall its embassy and consular staffs; second, that it would recall its nationals who were serving in the Chinese Eastern Railway; third, that it would sever railway communications between China and Soviet Russia, and, fourth, that China should immediately withdraw her embassy and consular staffs from Soviet territory. Such action on the part of the Soviet Government constitutes a gross violation of the Sino-Soviet agreement, a contemptuous disregard for international good faith, a wilful juggling of the actual facts, a misrepresentation of the true intent contained in China's reply and a calculated design to bring about the present situation which has resulted in a severance of international communication. The responsibility for such a situation should be shouldered entirely by the Soviet Government.

According to the reports of the frontier officials, the Soviet Government has been dispatching and preparing active troops to be distributed along the Chinese border and indulged in rifle shooting by way of threat and also sent airplanes to reconnoiter over China's territory. Should such acts of provocation on the part of the Soviet Government result in unavoidable clashes arising out of China's determination to defend her own rights the responsibility for disturbing the peace of the world must entirely rest with the Soviet Government. In a manifesto issued to the public on July 19 the Chinese Government declared that it would employ its entire strength within the scope of self-defense to act up to the spirit of the treaty for the renunciation of war and would persevere in the maintenance of that attitude.

In the renunciation of war, it will, apart from preserving its territorial sovereignty and adopting precautionary measures of self-defense against external invasions, strictly abide by Art. II of the treaty, for the pacific settlement of international disputes. Consequently, the Chinese Government, whether now or in the future, is ready at any time within the limits of possibility to discuss and settle with the Soviet Government the disputes induced by a misrepresentation of facts on the part of the Soviet Government.

VIII. AGREEMENTS FOR PEACE

1*a*. Treaty between the United States, the British Empire, France and Japan relating to their Insular Possessions and Insular Dominions in the Region of the Pacific Ocean [1]

Signed at Washington, December 13, 1921; in force from August 17, 1923

The United States of America, the British Empire, France and Japan,

With a view to the preservation of the general peace and the maintenance of their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean,

Have determined to conclude a treaty to this effect and have appointed as their plenipotentiaries: . . .

Who, having communicated their full powers, found in good and due form, have agreed as follows:

I. The high contracting parties agree as between themselves to respect their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean.

If there should develop between any of the high contracting parties a controversy arising out of any Pacific question and involving their said rights which is not satisfactorily settled by diplomacy and is likely to affect the harmonious accord now happily subsisting between them, they shall invite the other high contracting parties to a joint conference to which the whole subject will be referred for consideration and adjustment.

II. If the said rights are threatened by the aggressive action of any other power, the high contracting parties shall communicate with one another fully and frankly in order to arrive at an understanding as to the most efficient measures to be taken, jointly or separately, to meet the exigencies of the particular situation.

III. This treaty shall remain in force for 10 years from the time it shall take effect, and after the expiration of said period it shall continue to be in force subject to the right of any of the high contracting parties to terminate it upon 12 months' notice.

IV. This treaty shall be ratified as soon as possible in accordance with the constitutional methods of the high contracting parties and shall take effect on the deposit of ratifications, which shall take place at Washington, and thereupon the agreement between Great Britain

[1] United States, *Treaty Series*, No. 669; *Conference on the Limitation of Armament*, p. 1612.

and Japan, which was concluded at London on July 13, 1911, shall terminate. The Government of the United States will transmit to all the signatory powers a certified copy of the *procès-verbal* of the deposit of ratifications.

The present treaty, in French and in English, shall remain deposited in the Archives of the Government of the United States, and duly certified copies thereof will be transmitted by that Government to each of the signatory powers.

[Here follow formal clauses and signatures.]

RESERVATION OF THE UNITED STATES

[Excerpt from the President's proclamation.]

The said treaty was ratified by the United States subject to the reservation and understanding that "The United States understands that under the statement in the preamble and under the terms of this treaty there is no commitment to armed force, no alliance, no obligation to join in any defense."

DECLARATION SIGNED SEPARATELY DECEMBER 13, 1921

In signing the treaty this day between the United States of America, the British Empire, France and Japan, it is declared to be the understanding and intent of the signatory powers:

1. That the treaty shall apply to the mandated islands in the Pacific Ocean; provided, however, that the making of the treaty shall not be deemed to be an assent on the part of the United States of America to the mandates and shall not preclude agreements between the United States of America and the mandatory powers respectively in relation to the mandated islands.

2. That the controversies to which the second paragraph of Art. I refers shall not be taken to embrace questions which according to principles of international law lie exclusively within the domestic jurisdiction of the respective powers.

1*b*. Treaty between the United States, the British Empire, France and Japan Supplementary to the Treaty relating to their Insular Possessions and Insular Dominions in the Region of the Pacific Ocean [1]

Signed at Washington, February 6, 1922; in force from August 17, 1923

The United States of America, the British Empire, France and Japan have, through their respective plenipotentiaries, agreed upon the following stipulations supplementary to the quadruple treaty signed at Washington on December 13, 1921:

[1] United States, *Treaty Series*, No. 670; *Conference on the Limitation of Armament*, p. 1619.

The term "insular possessions and insular dominions" used in the aforesaid treaty shall, in its application to Japan, include only Karafuto (or the southern portion of the island of Sakhalin), Formosa and the Pescadores, and the islands under the mandate of Japan.

The present agreement shall have the same force and effect as the said treaty to which it is supplementary.

The provisions of Art. IV of the aforesaid treaty of December 13, 1921, relating to ratification shall be applicable to the present agreement, which in French and English shall remain deposited in the Archives of the Government of the United States, and duly certified copies thereof shall be transmitted by that Government to each of the other contracting powers.

[Here follow formal clauses and signatures.]

2. Treaty between the United States, the British Empire, France, Italy and Japan limiting Naval Armament [1]

Signed at Washington, February 6, 1922; in force from August 17, 1923

[Excerpt]

ARTICLE XIX. The United States, the British Empire and Japan agree that the status quo at the time of the signing of the present treaty, with regard to fortifications and naval bases, shall be maintained in their respective territories and possessions specified hereunder:

(1) The insular possessions which the United States now holds or may hereafter acquire in the Pacific Ocean, except (*a*) those adjacent to the coast of the United States, Alaska and the Panama Canal Zone, not including the Aleutian Islands, and (*b*) the Hawaiian Islands;

(2) Hongkong and the insular possessions which the British Empire now holds or may hereafter acquire in the Pacific Ocean, east of the meridian of 110° east longitude, except (*a*) those adjacent to the coast of Canada, (*b*) the Commonwealth of Australia and its territories, and (*c*) New Zealand;

(3) The following insular territories and possessions of Japan in the Pacific Ocean, to wit: The Kurile Islands, the Bonin Islands, Amami-Oshima, the Loochoo Islands, Formosa and the Pescadores, and any insular territories or possessions in the Pacific Ocean which Japan may hereafter acquire.

The maintenance of the status quo under the foregoing provisions implies that no new fortifications or naval bases shall be established in the territories and possessions specified; that no measures shall be taken to increase the existing naval facilities for the repair and maintenance of naval forces, and that no increase shall be made in the coast defenses of the territories and possessions above specified. This re-

[1] *Conference on the Limitation of Armament*, Washington, 1921–1922, p. 1581–1582; United States, *Treaty Series*, No. 671.

striction, however, does not preclude such repair and replacement of worn-out weapons and equipment as is customary in naval and military establishments in time of peace.

3. The Treaty for the Renunciation of War as an Instrument of National Policy[1]

Signed at Paris, August 27, 1928; in force July 24, 1929, for Afghanistan, Albania, Australia, Austria, Belgium, Bulgaria, Canada, Chile (August 12), China, Cuba, Czechoslovakia, Denmark, Dominican Republic, Egypt, Estonia, Ethiopia, Finland, France, Germany, Great Britain, Greece (August 3), Honduras (August 5), Hungary, Iceland, India, Irish Free State, Italy, Japan, Latvia, Liberia, Lithuania, Luxemburg (August 24), Netherlands, New Zealand, Nicaragua, Norway, Panama, Persia, Peru, Poland, Portugal, Rumania, Serb-Croat-Slovene State, Siam, South Africa, Soviet Union, Spain, Sweden, Switzerland (September 5), Turkey, United States; Costa Rica, Haiti and Venezuela had perfected adherences on August 1.

The President of the German Reich, the President of the United States of America, His Majesty the King of the Belgians, the President of the French Republic, His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, His Majesty the King of Italy, His Majesty the Emperor of Japan, the President of the Republic of Poland, the President of Czechoslovak Republic,

Deeply sensible of their solemn duty to promote the welfare of mankind;

Persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated;

Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any signatory power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this treaty;

Hopeful that, encouraged by their example, all the other nations of the world will join in this humane endeavor and by adhering to the present treaty as soon as it comes into force bring their peoples within the scope of its beneficent provisions, thus uniting the civilized nations of the world in a common renunciation of war as an instrument of their national policy;

Have decided to conclude a treaty and for that purpose have appointed as their respective plenipotentiaries

(Here follows a list of the plenipotentiaries)

[1] United States, *Treaty Series*, No. 796.

who, having communicated to one another their full powers found in good and due form have agreed upon the following articles:

ARTICLE I. The high contracting parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

ART. II. The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

ART. III. The present treaty shall be ratified by the high contracting parties named in the preamble in accordance with their respective constitutional requirements, and shall take effect as between them as soon as all their several instruments of ratification shall have been deposited at Washington.

This treaty shall, when it comes into effect as prescribed in the preceding paragraph, remain open as long as may be necessary for adherence by all the other powers of the world. Every instrument evidencing the adherence of a power shall be deposited at Washington and the treaty shall immediately upon such deposit become effective as between the power thus adhering and the other powers parties hereto.

It shall be the duty of the Government of the United States to furnish each Government named in the preamble and every Government subsequently adhering to this treaty with a certified copy of the treaty and of every instrument of ratification or adherence. It shall also be the duty of the Government of the United States telegraphically to notify such Governments immediately upon the deposit with it of each instrument of ratification or adherence.

In faith whereof the respective plenipotentiaries have signed this treaty in the French and English languages both texts having equal force and hereunto affix their seals.

Done at Paris, the 27th day of August in the year one thousand nine hundred and twenty-eight.

[The signatures of the plenipotentiaries follow.]

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